

Architecture Committee

July 20, 2023



TEXAS HISTORICAL COMMISSION

AGENDA
ARCHITECTURE COMMITTEE

Saint George Hall
113 E. El Paso
Marfa, TX 79843
July 20, 2023
9:00 a.m.

(or upon adjournment of the 8:30 a.m. Archeology Committee, whichever occurs later)

This meeting of the THC Architecture Committee has been properly posted with the Secretary of State's Office according to the provisions of the Texas Open Meetings Act, Chapter 551, Texas Government Code. The members may discuss and/or take action on any of the items listed in the agenda.

1. **Call to Order** – *Committee Chair Limbacher*
 - A. Committee member introductions
 - B. Establish quorum
 - C. Recognize and/or excuse absences
2. **Consider approval of the April 27, 2023 Architecture Committee meeting minutes** – *Limbacher*
3. **Division of Architecture update and Committee discussion, including updates on staffing, federal and state architectural reviews, courthouse preservation, disaster assistance, trust fund grants, and historic preservation tax credit projects (Item 8.1)** – *Brummett*
4. **Discussion and possible action on Courthouse Advisory Committee recommendations (Item 8.2)** – *Tietz*
5. **Consider filing authorization of rules review and proposed amendments to Texas Administrative Code, Title 13, Part 2 (Item 8.3)** – *Tietz*
 - A. Intent to review and consider for re-adoption, revision, or repeal of Chapter 12 related to the Texas Historic Courthouse Preservation Program for publication and public comment in the *Texas Register*
 - B. Proposed amendments to sections 12.5, 12.7, and 12.9 of Chapter 12 related to the Texas Historic Courthouse Preservation Program for first publication and public comment in the *Texas Register*
6. **Discussion and possible action regarding supplemental funding to previously awarded Texas Historic Courthouse Preservation Program projects in consideration of increased program cap (Item 8.4)** – *Tietz*
7. **Consider filing authorization of proposed amendments to sections 13.1, 13.2, and 13.3 of Texas Administrative Code, Title 13, Part 2, Chapter 13 related to the Texas Historic Preservation Tax Credit Program for first publication and public comment in the *Texas Register* (Item 8.5)** – *Brummett*
8. **Adjournment** – *Limbacher*

NOTICE OF ASSISTANCE AT PUBLIC MEETINGS: Persons with disabilities who plan to attend this meeting and who may need auxiliary aids or services such as interpreters for persons who are deaf or hearing impaired, readers, large print or Braille, are requested to contact Paige Neumann at (512) 463-5768 at least four (4) business days prior to the meeting so that appropriate arrangements can be made.

TEXAS HISTORICAL COMMISSION

MINUTES
ARCHITECTURE COMMITTEE
Embassy Suites Austin Central
Agave A-B
5901 North Interstate Hwy 35
Austin, TX 78723
April 27th 2023
11:30 a.m.

Note: For the full text of action items, please contact the Texas Historical Commission at P.O. Box 12276, Austin, Tx 78711 or call 512-463-6100

Committee members in attendance: Chair Laurie Limbacher and commissioners David Gravelle, Tom Perini, Earl Broussard and Monica Burdette

Committee members absent: Commissioners Garrett Donnelly and Lilia Garcia

1. Call to Order

The meeting was called to order at 11:30 a.m. by Committee Chair Laurie Limbacher. She announced the meeting had been posted to the *Texas Register*, was being held in conformance with the Texas Open Meetings Act, Texas Government Code, Chapter 551 and that the notice was properly posted with the Secretary of State's Office as required.

A. Committee member introductions

Chair Limbacher welcomed everyone and called on each commissioner to individually state their name and the city in which they reside.

B. Establish quorum

Chair Limbacher reported a quorum was present and declared the meeting open.

C. Recognize and/or excuse absences

Commissioner Earl Broussard moved to approve the absence of Commissioner Donnelly and Commissioner Garcia. Commission Burdette seconded the motion, and the motion passed unanimously.

2. Consider approval of the January 31st, 2023, Architecture Committee Minutes

Chair Limbacher called for a motion to approve the meeting minutes. Commissioner Broussard motioned, Commissioner Burdette seconded the motion, and the motion passed unanimously.

3. Division of Architecture Update and Committee Discussion

Architecture Division Director Elizabeth Brummett started with an update on the Tax Credit Program; she stated that the program had certified 21 projects for tax credits during the quarter. Ms. Brummett presented example projects: River Oaks Courts in Medina, Witte Building in San Antonio, and the Great Plains Life Insurance Company Building in Lubbock. For each project, Ms. Brummett explained the scope of work, technical challenges, and innovation each project involved. Ms. Brummett then transitioned to the Texas Historic Courthouse Preservation Program and updated the committee on the construction progress of Round XI grant recipients, Callahan, Mason, and Taylor counties. Ms. Brummett then provided an update on the Texas Preservation Trust Fund Grant (TPTF) Program. In February, the THC received 37 initial applications for the TPTF's Fiscal Year 2024 grant cycle, including 7 applications for special earmarked funding opportunities. The total funds requested were \$1.6 million, with over \$700,000 of the funds requested from Amarillo-area and Dallas earmarked funds. Ms. Brummett explained that in FY 2024, the TPTF program is offering earmarked funds for projects in the City of Dallas and the Texas Department of Transportation (TxDOT) Amarillo District areas, resulting from respective mitigation efforts. She informed the commissioners that the TPTF program received 5 applications for the City of Dallas funds and two

applications for the TxDOT Amarillo District funds. Ms. Brummett indicated the THC selected the highest-priority projects from the initial applications and invited 15 participants seeking standard TPTF to move forward to the Project Proposal stage on April 6. The Eligible applications for standard TPTF funds included 4 Heritage Education and 24 architecture applications. Ms. Brummett then concluded the update of the division's activities with a few staffing updates.

4. Courthouse Advisory Committee update (Item 9.2)

Chairman Limbacher updated the committee regarding the work of the Courthouse Advisory committee, describing the primary functions of the committee and the background of its members. Ms. Limbacher explained the committee has had two meetings, and there will be a final meeting on May 24, 2023. Elizabeth Brummett then provided additional background regarding the Courthouse Advisory Committee meetings, indicating that she has no recommendations at this time but would report on the progress of the committee's efforts. Ms. Brummett described the format of each meeting with a combination of breakout rooms and full group discussion. Ms. Brummett discussed survey questions that were asked of members and the feedback received. After the Courthouse Advisory Committee finalizes its recommendations at its May 24, 2023 meeting, staff will return at the July Quarterly Meeting with the Courthouse Advisory Committee's recommendations, along with an initial draft of rules changes. Ms. Brummett explained that publications of rules changes would be presented at the July Meeting and adoption would take place at the October Meeting to allow the Round XIII grant cycle to launch in late 2023. Chairman Nau then asked for clarification on whether there was any concern about the continuation of the Texas Historical Courthouse Preservation Program, to which Ms. Brummett said no, there is momentous support. Chairman Nau then asked for clarification on the schedule of implementation of rules changes. Ms. Brummett answered that there may be topics that require further research and that is the reason behind the suggested schedule. She asked if the Chairman would like all changes to occur at the same time, and Chairman Nau confirmed yes. Ms. Brummett thanked the Chairman for his feedback.

5. Consider approval of the recapture of funds from and/or supplemental funding to previously awarded Texas Historic Courthouse Preservation Program projects (Item 9.3)

Commissioner Gravelle moved to send forward to the Commission and recommend recapture of funds from Randall County in the amount of \$20.00. Commissioner Broussard seconded the motion and it passed unanimously.

6. Adjournment

Committee Chair Laurie Limbacher called the meeting to adjournment at 11:56 a.m.

Round 9 Construction Status Report

6/28/2023

County & Round	Pre-Construction						Construction							Post-Construction						Architect	Contractor	Status Notes		
	Reviewer	Grant Award & Balance	Funding Agreement	Easement	Architect Contract	Construction Docs	NTP Bid	SAL Permit	Bid Period Start	Bid Tally Sheet	Construction Contract	Sub List	NTP to Construction	Construction Start	Work In Progress	Close Out Docs	Certificate of Insurance	Completion Report	Substantial Completion				Project Completion	Rededication
Cameron 9 Emergency Construction	Tania Salgado	\$450,000.00 \$0	■	■	■	■	■	■	12/04/2016	■	■	■	■	7/26/2018	□	■	■	■	3/29/2019	4/29/2019	N/A	Ford, Powell & Carson, Inc.	SpawGlass	Complete
Fannin 9 Full Restoration	James Malanaphy	\$5,600,000.00 \$601,301.00	■	■	■	■	■	N/A	01/01/2018	■	■	■	■	4/1/2018	□	□	□	□	4/28/2022	8/1/2023	3/11/2022	ArchiTexas Dallas	Phoenix 1	Awaiting the Completion of Punch List Items and the Completion Report.
Karnes 9 Full Restoration	Tania Salgado	\$4,093,559.00 \$0	■	■	■	■	■	■	10/14/2015	■	■	■	■	11/1/2015	□	■	■	■	1/29/2018	3/2/2018	4/7/2018	Fisher-Heck Architects	MJ Boyle	Complete
Kleberg 9 Emergency Construction	Tania Salgado	\$450,000.00 \$0	■	■	■	■	■	■	11/1/2018	■	■	■	■	1/29/2018	□	■	■	■	4/8/2019	5/8/2019	N/A	Komatsu Architecture	JC Stoddard	Complete
Lynn 9 Full Restoration	Eva Osborne	\$5,149,905.00 \$0	■	■	■	■	■	■	12/01/2016	■	■	■	■	5/1/2017	□	■	■	■	10/1/2019	2/1/2019	7/20/2020	Komatsu Architecture	Stoddard Construction Management Inc.	Complete
San Saba 9 Full Restoration	Eva Osborne	\$4,911,105.00 \$0	■	■	■	■	■	■	08/25/2017	■	■	■	■	12/8/2017	□	■	■	■	5/1/2020	11/1/2019	3/4/2020	ArchiTexas Austin	JC Stoddard	Complete
Willacy 9 Emergency Construction	Tania Salgado	\$402,970.00 \$196,197.89	■	■	■	■	■	■	03/01/2017	■	■	■	■	11/1/2021	□	□	□	□	TBD	5/1/2023	N/A	Limbacher & Godfrey	SpawGlass	Architect is working with the contractor to closeout the project. Awaiting Completion Report.

Count:

7

Total Funds Awarded:

\$21,057,539.00

Funds Remaining:

\$967,048.00

Round X Construction Status Report

6/28/2023

County & Round	Pre-Construction						Construction									Post-Construction					Architect	Contractor	Status Notes	
	Reviewer	Grant Award & Balance	Funding Agreement	Easement	Architect Contract	Construct Docs	NTP Bid	SAL Permit	Bid Period Start	Bid Tally Sheet	Const Contract	Sub List	NTP Construction	Construct Start	Work In Progress	Close Out Docs	Insurance	Completion Report	Substantial Completion	Project Completion				Rededication
Camp 10e Emergency Construction	James Malanaphy	\$417,576.00 \$0	■	■	■	■	■	□	12/12/2019	■	■	■	■	1/5/2020	□	■	■	■	12/15/2020	1/15/2021	N/A	Komatsu Architecture	Joe R. Jones Construction	Complete
Falls 10 Full Restoration	Susan Tietz	\$5,832,430.00 \$0	■	■	■	■	■	■	06/01/2019	■	■	■	■	12/9/2019	□	■	■	■	10/12/2021	10/1/2021	10/16/2021	Komatsu Architecture	Stoddard Construction Management	Complete
Goliad 10e Emergency Construction	Tania Salgado	\$205,995.00 \$0	■	■	■	■	■	■	10/10/2018	■	■	■	■	1/9/2019	□	■	■	■	11/22/2019	11/22/2019	N/A	Wiss Janney Elstner Associates Inc	Phoenix 1	Complete
Kimble 10e Emergency Construction	Tania Salgado	\$318,176.00 \$0	■	■	■	■	■	■	11/30/2018	■	■	■	■	7/1/2019	□	■	■	■	4/2/2020	5/15/2020	N/A	Hutson Gallagher	Joe R. Jones Construction	Complete
Lee 10e Emergency Planning	James Malanaphy	\$44,170.00 \$0	■	■	■	■	■	■	N/A	■	■	■	■	N/A	□	■	■	■	N/A	5/1/2021	N/A	Sparks Engineering	N/A	Complete
Limestone 10e Emergency Construction	James Malanaphy	\$438,854.00 \$0.00	■	■	■	■	■	■	07/15/2021	■	■	■	■	9/1/2021	□	■	■	■	1/31/2022	1/31/2022	N/A	Komatsu Architecture	MRI Builders	Complete
Lipscomb 10 Full Restoration	Eva Osborne	\$5,050,906.00 \$0	■	■	■	■	■	■	09/14/2018	■	■	■	■	1/9/2020	□	■	■	■	4/30/2021	5/30/2021	7/3/2021	Arthur Weinman Architects	Premier Metalwerks	Complete
Marion 10 Full Restoration	James Malanaphy	\$4,682,610.00 \$0	■	■	■	■	■	■	09/01/2018	■	■	■	■	10/1/2018	□	■	■	■	1/15/2021	2/15/2021	5/22/2021	Komatsu Architecture	MRI Builders	Complete
Menard 10 Full Restoration	Eva Osborne	\$1,382,388.16 \$0	■	■	■	■	■	■	03/29/2019	■	■	■	■	8/1/2019	□	■	■	■	11/23/2020	11/23/2020	N/A	Stan Klein Architect, LLC	Stoddard Construction Management	Complete
Milam 10e Emergency Construction	Susan Tietz	\$60,012.00 \$0	■	■	■	■	■	■	04/01/2019	■	■	■	■	8/15/2019	□	■	■	■	12/1/2019	12/1/2019	N/A	ArchTexas Austin	MRI Builders	Complete

Count

13

Total Funds Awarded

\$23,665,090.16

Funds Remaining:

\$1,489,077.00

Round 10 Master Plan Update Grants Status Report

6/28/2023

County	Round	Reviewer	Grant Award	Remaining	Agreement	Contract	Schematic	Design	65%	95%	Architect	Contact	Notes
Bandera	10MP	Tania Salgado	\$ 50,000.00	\$ -	■	■	■	■	■	■	ArchiTexas Austin	Stan Graves	Complete
Bell	10MP	James Malanaphy	\$ 22,500.00	\$ -	■	■	■	■	■	■	EIKON Consulting	Michael Tubiolo	Complete
Blanco	10MP	Betsy Frederick-Rothwell	\$ 50,000.00	\$ -	■	■	■	■	■	■	Hutson Gallagher	Chris Hutson	Complete
Burnet	10MP	Susan Tietz	\$ 44,900.00	\$ -	■	■	■	■	■	■	ArchiTexas Austin	Larry Irsik	Complete
Chambers	10MP	Greta Wilhelm	\$ 50,000.00	\$ -	■	■	■	■	■	■	ArchiTexas Dallas	Jay Firsching	Complete
Clay	10MP	Eva Osborne	\$ 50,000.00	\$ -	■	■	■	■	■	■	Harper Perkins	Charles F. Harper	Complete
Coleman	10MP	Eva Osborne	\$ 50,000.00	\$ -	■	■	■	■	■	■	ArchiTexas Austin	Larry Irsik	Complete
Collin	10MP	James Malanaphy	\$ 44,000.00	\$ -	■	■	■	■	■	■	ArchiTexas Dallas	David Chase	Complete
Duval	10MP	Tania Salgado	\$ 50,000.00	\$ -	■	■	■	■	■	■	ArchiTexas Austin	Stan Graves	Complete
Frio	10MP	Tania Salgado	\$ 50,000.00	\$ -	■	■	■	■	■	■	ArchiTexas Austin	Stan Graves	Complete
Grayson	10MP	James Malanaphy	\$ 50,000.00	\$ -	■	■	■	■	■	■	ArchiTexas Dallas	David Chase	Complete
Hall	10MP	Eva Osborne	\$ 46,655.00	\$ -	■	■	■	■	■	■	Arthur Weinman	Arthur Weinman	Complete
Hutchinson	10MP	Eva Osborne	\$ 50,000.00	\$ -	■	■	■	■	■	■	Barham & Associates	Michael Barham	Complete
Jefferson	10MP	Susan Tietz	\$ 50,000.00	\$ -	■	■	■	■	■	■	LaBiche Architectural	Dohn LaBiche	Complete
Kimble	10MP	Tania Salgado	\$ 44,625.00	\$ -	■	■	■	■	■	■	Hutson Gallagher	Chris Hutson	Complete
Kleberg	10MP	Tania Salgado	\$ 49,500.00	\$ 49,500.00	■	■	■	■	■	□	Komatsu Architecture	Charlie Kearns	Awaiting Final Draft
Limestone	10MP	James Malanaphy	\$ 43,000.00	\$ -	■	■	■	■	■	■	Komatsu Architecture	Charlie Kearns	Complete
Mason	10MP	Eva Osborne	\$ 49,900.00	\$ -	■	■	■	■	■	■	ArchiTexas Austin	Stan Graves	Complete
McLennan	10MP	James Malanaphy	\$ 44,900.00	\$ -	■	■	■	■	■	■	ArchiTexas Dallas	David Chase	Complete
Randall	10MP	Eva Osborne	\$ 50,000.00	\$ -	■	■	■	■	■	■	Hutson Gallagher	Tracy Hutson	Complete
Robertson	10MP	Betsy Frederick-Rothwell	\$ 40,000.00	\$ -	■	■	■	■	■	■	ArchiTexas Dallas	Jay Firsching	Complete
Taylor	10MP	Eva Osborne	\$ 20,000.00	\$ -	■	■	■	■	■	■	ArchiTexas Austin	Stan Graves	Complete
Upshur	10MP	James Malanaphy	\$ 44,000.00	\$ -	■	■	■	■	■	■	Komatsu Architecture	Gordon Marchant	Complete
Willacy	10MP	Tania Salgado	\$ 50,000.00	\$ -	■	■	■	■	■	■	Limbacher & Godfrey	Laurie Limbacher	Complete
Wise	10MP	James Malanaphy	\$ 50,000.00	\$ -	■	■	■	■	■	■	Komatsu Architecture	Gordon Marchant	Complete

County & Round	Pre-Construction						Construction							Post-Construction						Architect	Contractor	Status Notes	
	Reviewer	Grant Award & Balance	Funding Agreement	Easement	Architect Contract	Construction Docs	NTP Bid	SAL Permit	Bid Period Start	Const Contract	Sub List	NTP Construction	Construction Start	Work In Progress	Close Out Docs	Insurance	Completion Report	Substantial Completion	Estimated Construction Completion				Rededication
Callahan 11 Full Restoration	Eva Osborne	\$4,684,891.00 \$2,534,301.00	■	■	■	■	■	■	6/1/2021	■	■	■	7/1/2021	■	□	□	□	TBD	1/11/2024	TBD	Komatsu Architecture	Stoddard Construction Management	Basement waterproofing and windows rehabilitation has begun. New elevator chase and enclosed stair are in process; structural issues being addressed by structural engineer; Geo-thermal well placement determined and tree removal complete. District Courtroom ceiling determined to be free of asbestos.
Duval 11 Emergency Construction	Tania Salgado	\$1,400,000.00 \$938,456.00	■	■	■	■	■	N/A	6/1/2021	■	■	■	1/18/2022	■	□	□	□	TBD	9/1/2023	N/A	ArchiTexas Austin	Premier Metalwerks	All work is complete and ready to be punched with the exception of a few items. Final reimbursement request received.
Lee 11 Emergency Construction	Dan Valenzuela	\$1,970,149.00 \$1,231,872.00	■	■	■	■	■	■	7/15/2021	■	■	■	3/3/2022	■	□	□	□	TBD	11/1/2023	N/A	Sparks Engineering	JC Stoddard	Additional cracks in the plaster walls have been observed. It is not clear if these occurred during foundation repairs. Architect will review pre-construction photos to make a determination.
Mason 11 Full Restoration	Eva Osborne	\$10,140,119.00 \$5,067,789.00	■	■	■	■	■	■	2/1/2022	■	■	■	1/15/2022	■	□	□	□	TBD	12/1/2023	TBD	ArchiTexas Dallas	Stoddard General Contractors	Work continues at the exterior including masonry repairs, roof reconstruction and window installation. Additional structural concerns at the porches resulted in a recommendation to vary heights of columns in relation to the porch surface versus the original roof line. Scaffolding has been removed and the building envelope is secured so that interior finish restoration can begin. The cupola was lifted April 19, 2023 with community organized celebration.
Newton 11 Special Appropriation	James Malanaphy	\$1,100,000.00 \$1,100,000.00	■	□	■	■	■	□	7/1/2023	□	□	□	8/1/2023	□	□	□	□	TBD	2/1/2024	N/A	LaBiche Architectural Group, Inc.		Notice to Proceed to Bid has been Issued.
Polk 11 Full Restoration	Dan Valenzuela	\$4,744,746.00 \$4,621,262.00	■	■	■	■	■	■	12/1/2022	■	■	■	7/1/2023	■	□	□	□	TBD	3/1/2024	TBD	Komatsu Architecture	JC Stoddard	Selective Demolition Underway.
Taylor 11 Full Restoration	Eva Osborne	\$5,980,000.00 \$5,041,053.00	■	■	■	■	■	■	1/5/2021	■	■	■	4/22/2021	■	□	□	□	TBD	6/1/2024	TBD	ArchiTexas Austin	Joe R. Jones Construction	Mock-ups of decorative interior plaster and scagliola, an Italian faux marble finish of tinted layered plaster, at the entry lobby columns and courtroom pilasters have been approved. The steel beams that support the soon-to-be reconstructed courtroom balcony have been delivered. A balcony at the second floor above the main entry has recently discovered masonry pinning issues that will result in additional visual interest at the front elevation. A conservator has been hired to restore the scagliola columns at the first and second floor lobbies.
Tyler 11 Special Appropriation	James Malanaphy	\$1,000,000.00 \$1,000,000.00	□	□	□	■	■	□	9/22/2022	■	□	□	1/15/2023	■	□	□	□	TBD	10/1/2023	N/A	LaBiche Architectural Group, Inc.	Construction Managers of Southeast Texas, LLC	Structural reinforcement for the clock tower on the roof underway.

Count:
10
Total Funds Awarded:
\$23,378,984.00

Funds Remaining:
\$23,216,558.00

Round 11 Planning

6/28/2023

County	Round	Reviewer	Grant Award	Remaining	Funding Agreement	Easement	Contract	Schematic	Design	65%	95%	Architect	Contact
Kimble	11	Tania Salgado	\$378,489.00	\$378,489.00	■	■	■	■	■	■	■	Hutson Gallagher	Chris Hutson
Washington	11	Betsy Frederick-Rothwell	\$713,130.00	\$0	■	■	■	■	■	■	■	Architexas	Susan Frocheur
Willacy	11	Tania Salgado	\$803,359.00	\$659,581.00	■	■	■	■	■	■	□	Limbacher & Godfrey	Laurie Limbacher
Wise	11	James Malanaphy	\$787,753.00	\$0	■	■	■	■	■	■	■	Komatsu Architecture	Karl Komatsu

Total Funds Awarded: \$2,682,731.00

Round 12 Counstruction Status Report

6/28/2023

County & Round	Pre-Construction						Construction							Post-Construction				Architect	Contractor	Status Notes
	Reviewer	Grant Award & Balance	Funding Agreement	Easement	Construction in Progress	Bid Documents	NTP To Bid	Bid Period Start	Construction Contract	SAL Permit Issued	NTP to Construction	Construction Start	Work in Progress	Estimated Completion	Substantial Completion	Rededication Date	Insurance Certificate			
Hall 12 Full Restoration	Eva Osborne	\$5,953,345.00 \$5,953,345.00	■	□	□	■	4/15/2023	□	□	□	TBD	□	TBD	TBD	TBD	□	□	Arthur Weinman Architects (Weinman)		Awaiting Site Survey for Easement. County Can't Accept Current Bid Since Value Engineering Attempts have not Reduced Costs Sufficiently. County Passed a Bond in November 2022, but it is Insufficient to Cover Cost Increases Following Bidding.
Kimble 12 Full Restoration	Tania Salgado	\$5,294,242.00 \$5,294,242.00	□	□	□	■	2/8/2023	■	□	□	TBD	□	TBD	TBD	TBD	□	□	Hutson Gallagher (Hutson)	JC Stoddard	County is Unwilling to Accept Current Bid after Value Engineering Attempts didn't Sufficiently Reduce Costs. Kimble has Requested Additional Funding Following the Cap Increase. May Return Round 12 Grant and Re-Apply in Round 13.
Upshur 12 Full Restoration	James Malanaphy	\$5,218,363.00 \$5,218,363.00	■	□	□	■	4/1/2023	□	□	□	9/1/2023	□	1/1/2025	TBD	TBD	□	□	Komatsu Architecture (Komatsu)		Bids Due June 29, 2023.
Wise 12 Full Restoration	James Malanaphy	\$5,162,247.00 \$5,113,284.00	■	□	□	■	1/15/2023	■	□	□	8/1/2023	□	12/1/2024	TBD	TBD	□	□	Komatsu Architecture (Komatsu)	Premier Commercial Group (Odom)	Contractor Selected.

Total Funds Awarded: \$ 21,628,197.00 **Funds Remaining:** \$ 21,579,234.00

Round 12 Planning

6/28/2023

County	Round	Reviewer	Grant Award	Remaining	Agreement	Easement	Contract	Schematic	Design	65%	95%	Architect	Contact
Comanche	12	Eva Osborne	\$925,061.00	\$816,693.63	■	■	■	■	□	□	□	Komatsu Architecture	Karl Komatsu

Awarded: \$925,061.00

Funds Remaining: \$816,693.63

TEXAS HISTORIC PRESERVATION TAX CREDIT PROGRAM



Brenham Federal Building 1915 Brenham • Washington County • Texas

History

Built early in the 20th century to serve the rapidly growing Brenham population, the Brenham Federal Building was constructed in the Classical Revival style common among federal properties of the era. The red brick appearance, along with the large side windows and Ionic columns at the front entry of the building, displayed the investment of the federal government in the city and Washington County at the time. As it was built before the widespread use of forced air mechanical systems, high ceilings were designed to allow for maximum air flow in the common spaces. Due to elevation, there was space to build a basement for back of house spaces, including a coal room for heating in the winter.

Rehabilitation Project

After the building was transferred from the federal government, the decision was made to create a museum space in the city of Brenham to display exhibits about its history. The post office entryway was retained, but now visitors may step behind the desk to see the large open space once used for mail sorting, and now used as exhibit space, while still understanding the historic use of the building. Fortunately, the door hardware and windows, along with many other details, were in great shape, and these were cleaned, repaired, and retained.

DESIGNATION: Individually listed in the National Register of Historic Places

HISTORIC USE: Post Office/
Government Offices

CURRENT USE: Museum

CERTIFIED: April 14, 2023

CONTACT: Upchurch Architects, Inc.;
Brenham Heritage Museum

Certified for state tax credits only.

For more info

www.thc.texas.gov/taxcreditprogram

TEXAS
HISTORICAL
COMMISSION
REAL PLACES TELLING REAL STORIES

TEXAS HISTORIC PRESERVATION TAX CREDIT PROGRAM



Alice & Ashley G. Davis House 1918 Denton • Denton County • Texas

History

This craftsman style house was built around the same time as most of the surrounding historic district in the 1910s-20s. The Davis House was home to several prominent families in the local history of Denton, but Alice & Ashley Davis were notable for their contributions to their city and owned the house during the period of significance of the neighborhood. The house changed ownership several times after they sold it, but was still used as a private residence. Unfortunately, during this time, the house and its finishes began to deteriorate and were in need of rehabilitation.

Rehabilitation Project

In order to qualify for the tax credit program, the Davis House was required to be an income-producing property, which it became by converting it into a long-term rental residence, something that could be done with minimal intrusion to the historic floorplan. An additional bedroom was added to draw more interest, and new mechanical systems and updated appliances brought the building up to modern use requirements while deferring to the historic appearance. Windows were repaired, and foundation problems that slowly grew over the past century were addressed to allow the house to continue to serve as a home for Denton residents for another hundred years.

DESIGNATION: Listed as contributing to the West Denton Residential Historic District in the National Register of Historic Places

HISTORIC USE: Private residence

CURRENT USE: Rental property

CERTIFIED: April 13, 2023

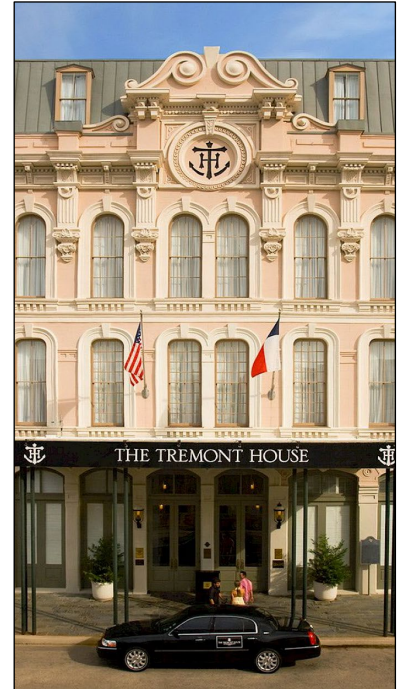
CONTACT: Historic Denton, Inc.

Also certified for federal tax credits.

For more info

www.thc.texas.gov/taxcreditprogram

TEXAS HISTORIC PRESERVATION TAX CREDIT PROGRAM



McDonnell Building 1873, 1907
Leon and H. Blum Building 1879, 1882
Marx and Blum Building 1890, 1904
Galveston • Galveston County • Texas

History

These three buildings, located on Mechanic Street between 23rd and 24th Streets, make up the modern and well-known Tremont House. The buildings originally served as offices, retail venues, warehouses, cotton exchanges, and other uses to complement the important Strand District. While not historically connected otherwise, two of the buildings suffered significant damage during Galveston's hurricane in 1900 and were later remodeled. The Marx and Blum Building was originally designed by Nicholas Clayton, as seen by the eccentric brickwork at the corner. The buildings were remodeled in the 1990s into the Tremont House. This work included installation of the fourth floor on the McDonnell Building and removal of two later floor additions on the Leon and H. Blum Building.

Rehabilitation Project

All three buildings had been largely gutted before the 1990s projects to create the Tremont House. The current rehabilitation focused largely on replacement of non-historic interior fabric. Most finishes were removed and replaced with new and contemporary pieces. This included: floor tile, carpet, wallpaper, paint, bathroom fixtures, lighting, and other features. Furnishings were also replaced throughout. Mechanical, electrical, and plumbing systems were upgraded as needed.

DESIGNATION: Listed as contributing resources to the Strand Historic District, designated as a National Historic Landmark

HISTORIC USE: Offices, retail, warehouse

CURRENT USE: Hotel, restaurant, meeting rooms, event center

CERTIFIED: May 3, 2023; May 25, 2023; and June 23, 2023

CONTACT: Ryan; FlickMars; Island Fire & Safety Equipment Co, Inc.; and David Watson Architects

Some projects certified for federal tax credits.

For more info

www.thc.texas.gov/taxcreditprogram

TEXAS HISTORIC PRESERVATION TAX CREDIT PROGRAM



Kell House 1909 Wichita Falls • Wichita County • Texas

History

The Kell House was built as the grand home of local entrepreneur Frank Kell, who moved to Wichita Falls 13 years earlier from Clifton, where he began business in milling and mercantile sales. Kell, together with brother-in-law, Joseph Kemp, were leading Wichita Falls in an unprecedented boom in economic growth. This began with their operation of the Wichita Mill and Elevator Company, and continued with the chartering of two different railroads that linked the city to wheat, coal, and oil resources. Kell and Kemp were instrumental in developing downtown Wichita Falls into a bustling city, establishing commercial buildings, a bank, a hotel, and streetcar lines. Kell's mansion was constructed in 1909 to house himself, his wife, and their seven children. Its grandeur is testament to his success as a businessman.

Rehabilitation Project

This initial project was a full exterior restoration of the mansion, which had suffered from deferred maintenance and resulting structural damage. The home's foundation was repaired, its roof replaced and gutters repaired, and the exterior brick was carefully repointed. All of the original wood windows were repaired and restored. The grand front porch, which is designed in a distinctive scallop shape and features a brick foundation and wood decorative features, was no longer structurally sound due to disintegrated joists and beams, putting the entire front elevation at risk. The two-story porch needed to be entirely dismantled, reconstructed and restored. A new foundation was poured and clad in brick to match the existing, and a new structural framework was built. The original massive wood columns, wood balustrade, and other millwork elements were transported to be restored off site in Fort Worth, and then reinstalled on the house.

DESIGNATION: Listed individually as a Recorded Texas Historic Landmark

HISTORIC USE: Single-family home

CURRENT USE: Museum

TOTAL COST: \$1,128,073

QUALIFIED EXPENSES: \$1,128,073

CERTIFIED: June 7, 2023

CONTACT: Wichita County Heritage Society, Trinity Hughes Construction, Hull Millwork, BYSP Architects, Komatsu Architecture

Certified for state tax credits only.

For more info

www.thc.texas.gov/taxcreditprogram

**TEXAS
HISTORICAL
COMMISSION** 
REAL PLACES TELLING REAL STORIES

TEXAS HISTORIC PRESERVATION TAX CREDIT PROGRAM



Winchester Kelso House 1906 San Antonio • Bexar County • Texas

History

This grand frame house occupies a corner lot in Monte Vista, and was originally the home of a local District Judge, Winchester Kelso. Monte Vista and adjacent neighborhoods were laid out as spacious residential subdivisions north of the city, with a regular street grid, lush landscaping, rear alleys, and large city lots that enabled owners to construct their own homes to their liking. The area was settled slowly between 1882 and the 1930s. The Kelso House was designed by renowned San Antonio architect Atlee B. Ayres. Ayres was a prolific designer of residential, institutional, commercial, and government buildings in South Texas throughout his career. His work also spanned a variety of architectural styles and influences, from Classical Revival to Spanish Colonial Revival – even to International Style at the close of his career. He was still a practicing architect at the time of his death in 1969.

Rehabilitation Project

The Kelso House had been vacant and not maintained for decades, and was threatened with demolition due to structural hazards. The property was purchased by a non-profit group, Power of Preservation, who made it their mission to save the house. The entire two-story porch was sinking precipitously, held up only with concrete blocks and mechanical jacks. They completed extensive repairs to shore up and stabilize the building, replaced the roof, and replicated and replaced missing woodwork and shingles around the exterior. The group, in coordination with the City of San Antonio and UTSA, also used the building as an active teaching lab, offering hands-on preservation training in window restoration and other trades.

DESIGNATION: Contributing resource within the Monte Vista Residential Historic District

HISTORIC USE: Residential

CURRENT USE: Rental/events

TOTAL COST: \$450,000

QUALIFIED EXPENSES: \$350,000

CERTIFIED: May 3, 2023

CONTACT: Power of Preservation Foundation; Guido Construction; Architectural Interiors

Certified for state tax credits only.

For more info

www.thc.texas.gov/taxcreditprogram

TEXAS HISTORICAL COMMISSION

Item 8.2

Texas Historical Commission
July Quarterly Meeting
July 20–21, 2023

Discussion and possible action on Courthouse Advisory Committee recommendations

Background:

The Texas Historical Commission convened a Courthouse Advisory Committee that met in April and May 2023 to examine specific aspects of the Texas Historic Courthouse Preservation Program (THCPP). Approaching its 25-year anniversary, the program has attracted more than 140 participants and awarded more than \$360 million to counties to fund the full restorations of 78 courthouses and provide smaller grants to assist with emergency and planning projects. During Round XII grant application evaluations in 2022, Architecture Committee members expressed concern that seven of the eleven emergency applications were for work on fully restored courthouses and in nearly all cases, the scopes of work described in their grant applications were to address design flaws or poor-quality construction during their full restoration projects. Based upon these concerns, the Commission appointed the Committee on February 1, 2023. The goal of the Committee's effort was to advise the Commission on improving construction quality to limit the number of courthouses returning for funding following their full restorations, examine the priorities of the THCPP by identifying buildings eligible for grant funding, and refine its grant project selection process. County judges and commissioners, facilities managers, a representative from the Texas Association of Counties, THC commissioners, preservation architects, and contractors comprised the Committee.

The Committee has put forward nine recommendations to the Commission to improve operations of the THCPP. To summarize, the THC should better educate counties about planning, construction, and post-construction considerations; require an owner's representative to more closely monitor construction and advocate for the building owner during the project; require counties to pursue administrative remedies with their contractor and/or architect to address poor-quality construction before requesting additional THCPP grant funding; evaluate returning applicants through a separate application and scoring system, and consider a balance of grant awards among the various grant types while continuing to prioritize the full restoration of historic courthouses; further support courthouse maintenance following full restoration projects; reconsider the Current Use ("Vacancy") score as it applies to courthouses vacated due to hazardous conditions or inaccessibility; reduce the emphasis on the age of a courthouse in the scoring systems; provide an incentive for applicants to encourage them to continue applying, despite an unsuccessful application since the quantity of applications demonstrates program interest and funding need; and clarify funding eligibility for auxiliary historic buildings on the courthouse square.

Please see the full Courthouse Advisory Committee recommendations on the following pages.

Rules changes to implement the Committee's recommendations are presented as Item 8.3B.

Recommended motion (Committee):

Move that the committee send forward to the Commission and recommend approval of policy changes to implement the Courthouse Advisory Committee's recommendations.

Recommended motion (Commission):

Move to approve policy changes to implement the Courthouse Advisory Committee's recommendations.

TEXAS HISTORICAL COMMISSION

2023 Courthouse Advisory Committee Recommendations for the Texas Historic Courthouse Preservation Program

June 12, 2023

The Texas Historical Commission (THC or Commission) convened a Courthouse Advisory Committee (Committee) that met in April and May 2023 to examine specific aspects of the Texas Historic Courthouse Preservation Program (THCPP). Approaching its 25-year anniversary, the program has attracted more than 140 participants and awarded more than \$360 million to counties to fund the full restorations of 78 courthouses and provide smaller grants to assist with emergency and planning projects. During Round XII grant application evaluations in 2022, the Commission's Architecture Committee members expressed concern that seven of the eleven emergency applications were for work on fully restored courthouses and in nearly all cases, the scopes of work described in their grant applications were to address design flaws or poor-quality construction during their full restoration projects. Based upon these concerns, the Commission appointed the Committee on February 1, 2023. The goal of the Committee's effort was to advise the Commission on improving construction quality to limit the number of courthouses returning for funding following their full restorations, examine the priorities of the THCPP by identifying buildings eligible for grant funding, and refine its grant project selection process. County judges and commissioners, facilities managers, a representative from the Texas Association of Counties, THC commissioners, preservation architects, and contractors comprised the Committee. The Committee met virtually on April 4 and April 12, 2023 to discuss the topics and make initial recommendations on how to address concerns, and on May 24, 2023 to finalize the Committee's recommendations. Committee members reviewed and approved final revisions to draft recommendations by email.

In preparation for the Committee meetings, staff developed an in-depth survey, and all seventeen members responded. The survey comprehensively covered the Committee's topics and solicited feedback on how to improve construction quality and reduce the number of returning applicants, how to assess and fund returning applicants, how to improve courthouse stewardship post-restoration, funding eligibility and scoring criteria considerations. Results from the survey were shared with the Committee at the beginning of the first two meetings and used to clarify the most important topics for discussion by the Committee. Staff prepared a background presentation for each meeting to educate the committee members on aspects of the program related to the pertinent topics.

At the initial Committee meeting, staff presented background on the THCPP Statute and Rules, recommendations from the last time the Courthouse Advisory Committee was convened in 2018, the types of funding offered through the program, how grant applications are evaluated and scored, and generally how grant-funded planning and construction projects are managed. The topics discussed at the April 4 Committee meeting were *Construction Quality* and *Evaluating and Funding Returning Applicants*. At the April 12 meeting, the Committee discussed potential changes to the *Scoring Criteria* and when *Auxiliary Buildings* are eligible for THCPP funding. At each of the first two meetings, Committee members were assigned to one of three breakout rooms. Each issue was deliberated by the three groups with a staff member reporting out feedback and insights from each group to the full Committee, identifying consensus and divergence for each topic.

This report provides the Committee's recommendations, insights, and guidance to the Commission and outlines the actions necessary to implement the recommendations. This report represents the Committee's efforts and includes specific recommendations for the THCPP grant project selection and award process. For each topic or area of interest, recommendations are listed in conjunction with any related impacts and

necessary actions. The Commission may choose to act on these recommendations and direct changes to THCPP program policy, implement changes to administrative rules in the Texas Administrative Code or, less likely, seek statutory amendments to the Texas Government Code. Alternatively, the Commission may choose not to act on one or more of the committee's recommendations.

Returning Applicants

Applicants with grant-funded fully restored courthouses may return to request additional funding for a variety of reasons: to complete a scope of work that was eliminated from their original full restoration project, due to an unanticipated emergency, or to repair or remedy defective work not properly undertaken during the original full restoration. At times, an agreement is formed between the county and the THC to allow a relatively large scope of work or a specific element of the originally proposed project as described in the grant application to be removed from the full restoration prior to the Funding Agreement. This may occur if the county's consultants determine the work to be currently unnecessary, such as a roof replacement when the roof remains in serviceable condition. Scope removed from a project due to value engineering after the Funding Agreement is signed should not affect the completeness of a project. Fully restored courthouses experience emergencies at a lesser rate than non-restored courthouses but may experience a sudden emergency due to a weather event, for example. Most of the fully restored courthouses that return for emergency grants are to address issues that develop following their full restoration. In some cases, urgent issues may develop due to deferred maintenance, but more often, the issues directly relate to poor construction quality either due to a deviation from the project design by the contractor or an error or omission in the architect's design. The Committee explored construction quality and how to assess and fund applications from returning applicants.

Construction Quality

Only five years into the program, the THC noticed fully restored courthouses falling into disrepair and created the Texas Historic Courthouse Stewardship Program to educate counties and their facility managers on the importance of maintenance and provide annual training on maintenance strategies and tools. Despite those efforts, fully restored courthouses continue to fall into severe disrepair, sometimes only a few years following completion of their project. In Round VIII (2014), a quarter of applicants had returned to request additional funding to repair issues that developed following their previous full restoration projects. And in Round XII (2022), seven of the eleven emergency grant applications were those returning for funding to remediate, reconstruct, or repair building issues due to poor construction quality, related to either design flaws or deviation from the construction documents by the contractor. In addition to construction quality issues, counties have also returned to request funding for unforeseen emergencies.

The survey results indicated that the most important factors in determining the quality of construction at the end of a full restoration project are an experienced contractor and quality construction documents prepared by the architect. During deliberations in the breakout rooms, Committee members nearly unanimously agreed that in addition to those two factors, counties need more education about the construction process.

Educational topics should include the full restoration planning and construction process, how to hire professionals and contractors, what to consider including in their contracts, the types of delivery methods, and what important steps to take to insure ongoing preservation of their courthouse. Counties also need more support regularly monitoring construction since the architectural consultant is typically only visiting the site twice a month, and the expertise of most county employees is insufficient to oversee a large construction project. Committee members agreed that an owner's representative who looks out for the best interest of the county and the courthouse would substantially improve the quality of construction and the efficiency of the process.

Committee Recommendation #1

Educate Counties about Planning, Construction, and Post-Construction Considerations

- a) Provide and require pre-application training for participating counties to be eligible for a THCPP grant. Include information about 1) the grant application and evaluation process, 2) the importance of budgeting and planning for cyclical maintenance immediately upon completion of the project, 3) the historic designation and nomination process, and 4) other pre-application considerations.
- b) Provide training to counties on hiring an architectural professional and what to consider in their contract for architectural plans & specifications and construction administration.
- c) Provide training on different project delivery methods, how to hire a contractor, and what to consider in their contract for construction.
- d) Provide post-construction training that directs counties to maintain communication with their architect and contractor, undertake a one-year warranty inspection with the full team, and ensure all issues are appropriately addressed.

Possible Action by THC:

- i) Prepare pre-application and post-restoration training modules for counties.
- ii) Require county representatives attend pre-application training as a prerequisite for applying for a THCPP grant. Require county representatives attend post-restoration training as a condition of the grant funding agreement.
- iii) Supplement staff-prepared training by hiring a professional consultant to prepare digital training modules and written materials related to:
 - 1) hiring a professional architectural consultant, owner's representative, and contractor, including establishing and evaluating qualifications;
 - 2) what to consider when entering into contracts for planning, construction, and project management, including types of project delivery methods for construction;
 - 3) what to expect during the construction process; and
 - 4) the roles and responsibilities of the project participants before, during, and after construction.
- iv) Develop a list of typical considerations or standard conditions for contract documents, tailored to the needs of historic courthouses and the expectations of the THCPP.

Committee Recommendation #2

Require an Owner's Representative to Monitor the Construction Project

- a) Require counties undergoing a grant-funded full restoration to hire an owner's representative to monitor construction for at least a minimum number of hours per week. The THC will provide minimum and preferred qualifications based upon professional guidance, and allowable fees. Counties may use a county employee who meets the minimum qualifications and can devote sufficient time to act on behalf of the county undertaking its responsibility to engage in project management, coordination, facilitation, oversight, and monitoring during the design, procurement, and construction phases of a project.

Possible Action by THC:

- i) Develop a list of minimum and preferred qualifications, minimum time commitment, and clear roles and responsibilities for an owner's representative.
- ii) Change the THCPP Grant Manual to require that counties hire or employ an owner's representative to review the full restoration architectural plans and specifications before the project goes to bid and monitor their grant-funded full restoration construction project. Encourage counties to bring on an owner's representative during project design.

- iii) Change the THCPP Grant Application materials to include a line item for an owner’s representative in the grant application budget and funding request, and make this an eligible expense for reimbursement or in-kind contribution credit toward a grant recipient’s match. Encourage counties to employ a qualified staff member, to continue in the capacity of courthouse steward following completion of the grant-funded project.
- iv) Evaluate the allowable architectural and engineering fees to ensure they align with industry standards. Consider the fiscal impact of implementing committee recommendations #5.b and 5.c in determining the overall amount of allowable fees.

Evaluating and Funding Grant Applications from Returning Applicants

The 2018 Courthouse Advisory Committee recommended that the focus of the THCPP continue to be to fund as many full restoration projects as possible, over emergency, planning, and other alternative projects. It also recommended considering funding for returning applicants with previously restored courthouses with emergency scopes of work and redefined emergency as “caused by a catastrophic event, a recently discovered condition that threatens the building with imminent and severe damage or critical repairs needed to correct accelerating damage from long-term deferred maintenance”. Since 2018, the program has seen applicants returning to fund work that might not rise to the level of emergency but if not addressed will eventually lead to issues that endanger preservation of the courthouse. While awarding grants to fund work that was already funded and completed during a full restoration drains money from program participants still awaiting full restoration grants, the 2023 Courthouse Advisory Committee recognized that not funding urgent repairs on fully restored courthouses threatens courthouse preservation and the state and local investments in the original project. The Committee nearly unanimously agreed that counties with fully restored courthouses should be eligible for additional grant funding to address issues on their courthouse, whether due to an unforeseen emergency, to remedy construction quality issues from their original full restoration project, or for other potentially legitimate reasons. Survey results and discussions in the breakout rooms indicate that the Committee expects counties experiencing issues following a full restoration project to pursue some form of remedy with the parties involved; however, determining fault can be complicated, and full litigation would not necessarily result in the best outcome for the county or the courthouse.

Currently, THCPP offers applicants three types of competitive grants for planning, full restoration, and emergency projects. For awarding these three competitive grants, the THCPP uses a standard application for full restoration grants that also includes a request for a planning grant to develop architectural plans and specifications for a future full restoration construction project and one for emergency applicants that need to address urgent issues that endanger the courthouse itself or its users. The THCPP also offers out-of-cycle emergency grants and supplemental grants that are both awarded by the Commission during a quarterly meeting outside of the biannual grant cycles. To request an emergency grant out-of-cycle or a supplemental grant, a county must submit a letter to the Commission’s Executive Director, describing the need for funding, the urgency of the request and providing a cost estimate for the work. Supplemental awards typically address unforeseen conditions that arise or substantial cost overruns on ongoing construction projects, but may also address some scopes of work that were unintentionally omitted on a completed full restoration project.

The Committee expressed concern over comparing returning applicants to applicants that had not yet received a full restoration grant. Instead, returning applicants with fully restored courthouses should receive funds through a competitive process, with fourteen of the twenty-one scoring criteria used to evaluate the application, removing Full Restoration, Overmatch, County Records, County Support, Local Support, Local Resources, and Plans and Specifications, since these categories demonstrate support for or apply to full restoration proposals. The fourteen categories important to consider for returning applicants are listed below. Mock scoresheets were developed using the new *Returning Applicants Criteria* and applied to the Round XII

returning applicants, which illustrate the most urgent projects would rise to the top using the new system. Endangerment and County Revenue varied most among returning applicants and therefore typically would determine which projects are funded more than all other categories. The committee recommends that all returning applicants, including those seeking emergency funding, be evaluated using this selective set of scoring criteria.

Several Committee members noted the importance of regular, cyclical maintenance and pointed out that the poorest counties may not have the resources to fund cyclical maintenance, which costs on average 1 to 4% of the overall value of the building, annually. In all three breakout rooms, members offered substantial support for the THCPP providing seed funding for maintenance endowments to support the poorest counties in preserving historic courthouses and protecting the state’s investment.

Committee Recommendation #3

Require Counties to Pursue Administrative Remedies with Contractor and/or Architect Before Requesting THCPP Grant Funding

- a) Require counties returning for funding first to pursue repairs under warranty or administrative remedies with their contractor and/or architect if the scope of work is to correct poor-quality construction during the original full restoration project.

Possible Action by THC:

- i) Establish by THCPP Policy a requirement that counties present evidence that demonstrates their pursuit of administrative remedies before requesting funding to address scopes of work related to issues during the full restoration project, either due to contractors or subcontractors not following the architectural plans & specifications as designed or due to errors and omissions by the architect.
- ii) Seek legal advice on the liability of various parties in developing the policy requirements.
- iii) Consider adding provisions in 13 Tex. Admin. Code § 12.7 to require repayment of grant for repairs to poor-quality construction if funds are later recovered through litigation.

Committee Recommendation #4

Evaluate all Returning Applicants on a Separate Application and Scoring System

- a) Establish a new scoring system for awarding competitive grants to returning applicants with a fully restored courthouse.
- b) Recommend the Commission consider a balance of awards among the grant types, prioritized in the order of full restoration, emergency, returning applicants, and planning grants.

Possible Action by THC:

- i) Establish by Policy a selective set of fourteen scoring criteria excerpted from the 21 standard scoring criteria to evaluate candidates proposing limited scopes of work on previously restored courthouses.

- | | | |
|-------------------------------|-------------------------------|--------------------|
| 1. Historical Designations | 6. Integrity | 11. Non-THCPP Deed |
| 2. Age (with changes) | 7. Current Use (with changes) | 12. THCPP Deed |
| 3. Architectural Significance | 8. Future Use (with changes) | 13. Compliance |
| 4. Historical Significance | 9. Fix Changes | 14. County Revenue |
| 5. Endangerment | 10. Master Plan | |

- ii) Change the THCPP Grant Application materials to add a description of the program’s funding priorities, with an emphasis on full restoration grants as the highest priority. Ensure the application materials clearly describe the types of projects that are eligible or ineligible for grant funding, with a focus on parameters for returning applicants as a new grant category.
- iii) Consider emergency and returning applicants for funding in each future grant round, and identify those projects with the clearest endangerment issues through the scoring process for prioritization for funding.

Committee Recommendation #5

Support Courthouse Maintenance Following Full Restoration

- a) Continue to promote and provide stewardship training to counties, with an emphasis on encouraging regular and ongoing participation.
- b) Require architectural consultant to provide a thorough Cyclical Maintenance Plan for counties as part of the grant Completion Report.
- c) Require one-year warranty inspection of the courthouse with THCPP Reviewer, architectural consultant, contractor, and county representative.
- d) Restore THCPP Stewardship staff position.

Possible Action by THC:

- i) Change the Construction Grant Manual to require a more detailed cyclical maintenance plan that includes maintenance schedules and tasks for all aspects of the building as part of the Completion Report. Provide the *Historic Courthouse Maintenance Handbook* in multiple formats to facilitate its use as a foundational document in preparing cyclical maintenance plans.
- ii) Change the Construction Grant Manual to require, rather than recommend, a one-year warranty inspection by including a warranty inspection report as part of the close out documents required before the final 10% of the grant balance is released as final reimbursement to the county.
- iii) In a future legislative session, request an employee (one Full-Time Equivalent (FTE)) for the Courthouse Preservation Program team to restore the staff position, eliminated in 2011, whose sole function was to support courthouse stewardship by visiting fully restored courthouses to conduct conditions assessments and provide reports of issues to address, provide technical assistance to counties and craft annual stewardship training for county judges, commissioners and facility managers.

THCPP Grant Application Scoring

Until the addition of the County Revenue scoring criterion following recommendations by the 2018 Courthouse Advisory Committee, the same 21 scoring criteria have been used for non-emergency applicants since the inception of the THCPP.

Current Use “Vacancy” Score

The THCPP grant application scoring criteria (13 Tex. Admin. Code §12.9(c)) call for an evaluation of the building’s use as a functioning courthouse, both before and after the project’s completion. Current statutory language permits grant funding to be used for properties that no longer function as a county courthouse but requires that functioning courthouses receive funding priority (Texas Government Code, Chapter 442, Section 442.0081(d)(1)(B)(i)). This is accomplished through the scoring criteria and weights assigned to each. Two criteria pertain to building use, providing an opportunity to allocate 0, 10, or 20 points for a courthouse that is used for court or administrative functions at the time of application (Current Use) and 0, 6, or 10 points for proposals that include court and administrative functions in the completed projects (Future Use). It

should be noted that grants are often selected based upon a difference in just one or two points, so 20 points is a significant point range.

The Committee determined that the Current Use scoring criteria penalizes applicants with courthouses vacated due to conditions out of their control that affect either the safety of building users or the accessibility of the building. Furthermore, the Committee determined that applicants may continue using an unsafe or inaccessible building to earn critical points in the Current Use category. Flipping the number of points allocated for Current Use and Future Use would place more emphasis on whether the project results in a functioning courthouse rather than on whether the building is being used as a courthouse at the time of application. This means that the points allocated in the category of Current Use should be 0, 6, and 10, and points allocated in the category of Future Use should be 0, 10 or 20. Additionally, counties vacating their courthouse due to unavoidable risks to building users such as issues affecting life, safety or welfare of the building users or the county itself should be awarded an intermediary score of 6 points rather than 0 points in the category of Current Use. Program staff created a mockup scoresheet and applied it to Round XII applicants. In the mock scenario, staff considered the Comanche County Courthouse as if it were vacated, since that county has been occupying its courthouse to maintain a competitive score, despite the building being considered inaccessible with a notice from the Department of Justice to cease use. The newly proposed scoring for these two categories meant that courthouses that are vacant or potentially vacant, due to life safety or accessibility issues, were impacted minimally by their current vacancy in terms of their overall score and competitiveness for funding. Making the proposed changes to the scoring system in the categories of Current Use and Future Use seeks to distinguish between counties that vacate their building by choice or to prepare for as-yet unfunded construction from those counties that vacate their courthouse due to issues that require them to leave the building.

Committee Recommendation #6

Reconsider the Current Use “Vacancy” Score as it Applies to Courthouses Vacated Due to Hazardous Conditions or Inaccessibility

- a) Assign higher points in the category of Future Use and reduce the number of points allocated for Current Use to emphasize the building’s use as a courthouse following completion of the project rather than its use at the time of application.
- b) Limit the penalty for counties that vacate their courthouse due to hazardous conditions or inaccessibility by awarding an intermediary score rather than 0.

Possible Action by THC:

- i) By policy, assign 0, 10, or 20 points to the category of Future Use and 0, 6, or 10 points to the category of Current Use.
- ii) Establish by policy a protocol for counties to demonstrate the necessity of vacating their courthouse. Allocate 6 points to counties that can demonstrate a requirement to vacate their courthouse due to hazardous conditions or inaccessibility.

Age Score

The Texas Government Code, Chapter 442, Section 442.0081(d)(1)(B)(ii) requires that the THCPP prioritizes funding for courthouses built before 1875. When the THC established the original scoring criteria, it expanded the Statute’s intention by creating three additional age ranges, assigning significantly more points to older courthouses than newer ones. The THCPP currently considers the following criteria when awarding points in the Age of a Courthouse category:

- 20 Points: Pre-1875
- 15 Points: 1875 to 1899
- 10 Points: 1900 to 1925
- 5 Points: After 1925

The Committee nearly unanimously agreed that the age of a courthouse is not as important as its architectural significance and its level of endangerment, and that emphasis on a courthouse’s age as a deciding factor should align more closely with the intent of the Statute. If the overall points assigned to the age categories are reduced significantly and the age ranges simplified to pre-1875, 1876 to 1899, and post-1900, this reduces the significance of the age of a courthouse and allows other more important categories to determine funding, while continuing to comply with the intent of the Statute.

Committee Recommendation #7

Reduce the Emphasis on the Age of a Courthouse in the Scoring Systems

- a) Minimize the impact of a courthouse’s age when considering applicants for funding, and allow other more significant categories to become more prominent in determining funding.

Possible Action by THC:

- i) By policy, change the age ranges in the standard, emergency, and returning applicant scoring systems and assign points as follows:
- Pre-1875: 6 points
 - 1876–1899: 4 points
 - 1900 or later: 2 points
- ii) By policy, consider the presence of later modifications and the identified restoration period in assigning the age score.

New Scoring Category to Reward an Applicant’s Dedication

The number of applicants each round demonstrates the level of interest in and need for the program. Currently there is no incentive for applicants with unsuccessful applications to reapply in the next round, particularly if their application scored significantly below the successful applications. Applicants often lose interest after a few rounds of rejected grant applications. Once counties stop applying, they may not participate again for many years, or they may never participate again. Awarding a single point each time an applicant applies could encourage commitment from applicants and higher application rates each cycle.

Survey results indicated considerable support for adding a Longevity criterion to the THCPP standard scoring criteria and awarding points retroactively; therefore, the proposed addition to the scoring criteria was not discussed in the meetings.

Committee Recommendation #8

Provide an Incentive for Applicants to Encourage Them to Continue Applying, Despite an Unsuccessful Application

- a) Add a new category to the standard scoring system, and assign points based on the number of cycles that applicant submitted a grant application for a full restoration.
- b) Award points retroactively.

Possible Action by THC:

- i) Revise 13 Tex. Admin. Code § 12.9 (c) to add a scoring category in consideration for counties continuing to apply for funding.
- ii) Establish by Policy the number of points awarded in the scoring criterion as follows:
 - Initial application: 0 points
 - 1–2 prior applications: 1 point
 - 3–4 prior applications: 2 points
 - 5–6 prior applications: 3 points
 - 7–9 prior applications: 4 points
 - 10+ prior applications: 5 points

Auxiliary Buildings and Funding Eligibility

The law that created the grant program states that “the commission may grant or loan money to a county or municipality that owns a historic courthouse, for the purpose of preserving or restoring the courthouse” and “a county or municipality that owns a historic courthouse may apply to the commission for a grant or loan for a historic courthouse project”. The current definition of courthouse, historic courthouse, and historic courthouse project do not provide a clear definition of what building(s) on the courthouse square are eligible for THCPP funding.

The THCPP has funded historically attached annexes and additions as part of an overall restoration of the primary courthouse. The Committee considered and provided clarification on when it is appropriate to fund an auxiliary building and recommends a clearer definition in the Texas Administrative Code. The Committee indicated that historic buildings constructed for the purpose of expanding the courthouse functions that were historically attached to the primary courthouse should be eligible for THCPP grant funding as part of an overall restoration of the courthouse complex. While the question received a range of answers, many Committee members were opposed to considering freestanding buildings on the square until all courthouses seeking funding are fully restored.

Committee Recommendation #9

Clarify funding eligibility for auxiliary historic buildings on the courthouse square.

- a) Provide clearer definitions of Courthouse and Historic Courthouse so that THCPP funding is awarded to eligible buildings as outlined in the Statute.

Possible Action by THC:

- i) Revise 13 Tex. Admin. Code § 12.5 to provide a clearer definition of Courthouse and Historic Courthouse to align with the intention of the Statute that grants fund the preservation of buildings that serve or have served as the county courthouse:

- Courthouse:
 - Current Definition: (4) *Courthouse*. Means the principal building(s) which houses county government offices and courts and its (their) surrounding site(s) (typically the courthouse square).
 - Proposed Definition: (4) *Courthouse*. Means the principal building which serves as the primary seat of government of the county in which it is located, and its surrounding site (typically the courthouse square). The courthouse includes additions or annexes physically attached to the building that were constructed for the purpose of expanding the functions of the courthouse, but it does not include other freestanding buildings on the site.
 - Historic Courthouse:
 - Current Definition: (5) *Historic courthouse*. Means a county courthouse or building that previously served as a county courthouse that is at least 50 years old prior to the date of application, with the initial date of service defined as the date of the first official commissioners court meeting in the building.
 - Proposed Definition: (5) *Historic courthouse*. Means a building that currently or previously served as a county courthouse, as defined in paragraph (4), and which entered service as a courthouse at least 50 years prior to the due date of the grant application, using the first commissioners court meeting as its first date of service. A historic courthouse may include additions or annexes physically attached to the courthouse for at least 50 years prior to the due date of the grant application.
- ii) For clarity, add definitions for Full Restoration and Restoration Period to 13 Tex. Admin. Code § 12.5:
- *Full restoration:* Means a construction grant to undertake a project to restore a courthouse to its appearance at an agreed upon restoration period, which includes removing additions and alterations from later periods and reconstructing features missing from the restoration period. This treatment applies to the site, exterior of the courthouse, and interior public spaces such as the corridors, stairways, and courtrooms. Secondary spaces may be preserved or rehabilitated rather than restored. Additions or attached annexes must be removed if they post-date the selected restoration period. Retention or removal of site features from outside of the restoration period may be evaluated on a case-by-case basis.
 - *Restoration period:* Means the date selected for the purpose of defining the full restoration of a courthouse, representing the most significant time in the courthouse's history. Selection of the restoration period must be justified based on documentary and physical evidence and surviving integrity of historic materials from that period, and it must be described in the master plan for the restoration project. The restoration period represents a time when the building in its entirety exhibited a cohesive architectural style exemplifying the work of an architect or a period when the building experienced a significant historical event.

2023 Courthouse Advisory Committee Members

The members of this Advisory Committee have expertise in areas related to county government, the courthouse grant and maintenance programs, Texas courthouses, historic preservation and/or grant administration.

Elected County Officials

These county judges and commissioners have direct relevant experience with one or more of the topics under discussion by the Committee.

1. Mike Braddock, County Judge, Lynn County, Tahoka
2. Stephanie Davis, County Judge, Comanche County, Comanche
3. Joy Fuchs, former Commissioner, Washington County, Brenham
4. Leward LaFleur, County Judge, Marion County, Jefferson
5. L.D. Williamson, former County Judge, Red River County, Clarksville

Texas Association of Counties Representative

The Texas Association of Counties understands the risks associated with counties' facilities and that quality construction and a fully restored courthouse substantially lower a county's risk. Former County Judge Kim Halfmann has experience representing the needs of counties as the liaison for the Texas Association of Counties as well as experience supervising a large construction project after actively managing the restoration and rehabilitation of the Glasscock County Courthouse while their County Judge.

6. Kim Halfmann, County Relations Officer, Texas Association of Counties

Facility Managers

These facility managers have longstanding experience maintaining a fully restored courthouse and some have experience with post-restoration issues with their buildings.

7. Mike Head, former Facilities Manager, Potter County, Amarillo
8. Ricky Kerr, Facilities Manager, Cooke County, Gainesville
9. Rene Montalvo, Facilities Manager, Karnes County, Karnes City

THC Commissioners/Formers Commissioners

Laurie Limbacher and Donna Carter both have experience evaluating, scoring, and funding THCPP grant applications and observing fully restored courthouses returning for supplemental and emergency funding.

10. Laurie Limbacher, Architect and Current Chair, Architecture Committee, Texas Historical Commission, Austin
11. Earl Broussard, Landscape Architect, Architecture Committee, Texas Historical Commission, Austin
12. Donna Carter, Architect and Former Chair, Architecture Committee, Texas Historical Commission, Austin

Architects

These architects have experience working in the field of historic preservation and two have direct experience with the full restoration of courthouses through the THCPP.

13. Hugo Gardea, Preservation Architect, General Services Administration, Fort Worth
14. Stan Graves, Preservation Architect, Architexas, Austin and Former Director of the Division of Architecture and the Texas Historic Courthouse Preservation Program
15. Karl Komatsu, Preservation Architect, Komatsu Architecture, Fort Worth

Contractors

Both contractors have substantial experience as general and sub-contractors on THCPP grant-funded full restorations of historic courthouses.

16. Alan Odom, Contractor, Premier Commercial Group, and Subcontractor, Premier Metalwerks, Haltom City
17. Curt Stoddard, Contractor, JC Stoddard Construction, San Antonio

THC Staff

Mark Wolfe, State Historic Preservation Officer – Executive Director, Texas Historical Commission

Elizabeth Brummett, Deputy SHPO – Director, Division of Architecture

Susan Tietz, AIA – Architect and Coordinator, Courthouse Preservation Program

James Malanaphy, AIA – Architect and Reviewer, Courthouse Preservation Program

Eva Osborne, AIA – Architect and Reviewer, Courthouse Preservation Program

Donye Reese – Specialist, Courthouse Preservation Program

Tania Salgado – Reviewer, Courthouse Preservation Program

Dan Valenzuela – Architect and Reviewer, Courthouse Preservation Program

TEXAS HISTORICAL COMMISSION

Item 8.3A

Texas Historical Commission

July Quarterly Meeting

July 20–21, 2023

Consider filing authorization of intent to review and consider for re-adoption, revision or repeal of Texas Administrative Code, Title 13, Part 2, Chapter 12 related to the Texas Historic Courthouse Preservation Program for publication in the *Texas Register*

Background:

Each state agency is required by Texas Government Code Section 2001.39 to review and consider for re-adoption their rules in the Texas Administrative Code every four years. A notice (proposed rule review) must be filed with the *Texas Register* to inform the public that the Texas Historical Commission will start reviewing its chapters/rules. This gives the public an opportunity to submit comments regarding the review.

The Commission will accept comments for 30 days following publication of the notice in the *Texas Register* as to whether the reasons for adoption of these rules continue to exist. In a separate action, amendments to the rules are concurrently proposed. Any additional changes to the rules as a result of the review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption of any repeal, amendment, or re-adoption.

Recommended Motion (Committee):

Move that the committee send forward to the Commission and recommend approval of the Texas Historical Commission's intent to review and consider for re-adoption, revision or repeal of Chapter 12, related to the Texas Historic Courthouse Preservation Program, for publication in the *Texas Register*.

Recommended Motion (Commission):

Move to approve the filing authorization of the Texas Historical Commission's intent to review and consider for re-adoption, revision or repeal of Chapter 12, related to the Texas Historic Courthouse Preservation Program, for publication in the *Texas Register*.

TEXAS HISTORICAL COMMISSION

Proposed Preamble Form

The Texas Historical Commission files this notice of intent to review and consider for re-adoption, revision or repeal, Chapter 12, related to the Texas Historic Courthouse Preservation Program.

Pursuant to Texas Government Code § 2001.039, the Texas Historical Commission will assess whether the reason(s) for initially adopting these rules continue to exist. The rules will be reviewed to determine whether they are obsolete, reflect current legal and policy considerations, reflect current general provisions in the governance of the Commission, and/or whether they are in compliance with Chapter 2001 of the Texas Government Code (Administrative Procedures Act).

The Commission will accept written comments received on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*. Comments as to whether the reasons for initially adopting these rules continue to exist may be submitted to Elizabeth Brummett, Director, Architecture Division, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711-2276, or by email to elizabeth.brummett@thc.texas.gov. In a separate action, amendments to the rules are concurrently proposed. Any additional changes to the rules as a result of the review will be published in the Proposed Rules Section of the *Texas Register* and will be open for an additional 30-day public comment period prior to final adoption of any repeal, amendment, or re-adoption.

TEXAS HISTORICAL COMMISSION

Item 8.3B

Texas Historical Commission
July Quarterly Meeting
July 20–21, 2023

Consider filing authorization of proposed amendments to sections 12.5, 12.7, and 12.9 of Texas Administrative Code, Title 13, Part 2, Chapter 12 related to the Texas Historic Courthouse Preservation Program for first publication and public comment in the *Texas Register*

Background:

The proposed amendments Sections 12.5, 12.7, and 12.9 provide changes to the Texas Historic Courthouse Preservation Program rules that respond to recommendations provided by a recently adjourned Courthouse Advisory Committee and changes to the Texas Government Code made during the 88th Legislature (Regular Session). An additional revision is proposed that clarifies program match requirements to better coordinate the rules with the intent of the statute.

Section 12.5 is revised to provide a clearer definition of “courthouse” and “historic courthouse,” remove redundant definitions, and consolidate program eligibility requirements in §12.7(a). New definitions of “full restoration” and “restoration period” clarify the parameters for associated grants.

Section 12.7(d) is revised in consideration of Texas Government Code §442.0081(d)(2), which indicates that the commission will give preference to applicants providing at least 15% of the project cost but does not disallow a smaller match. The updated language allows the commission, at its sole discretion, to waive or modify the match requirements in this section.

Section 12.7(e)(3) is revised to reflect a change in the program cap from \$6 million to \$10 million, based on recent legislation that will go into effect on September 1, 2023 (Tex. S.B. 1332, 88 Leg., R.S. (2023), to be codified at Texas Government Code §442.0083(e)). Section 12.7(j) is revised to change a program requirement to a recommendation regarding future grant applications. Section 12.7(k) is added to require repayment of grants for repairs to poor-quality construction if funds are later recovered.

Section 12.9 is revised to correct grammatical and citation errors, and §12.9(c)(23) is added to create a scoring category in consideration for counties continuing to apply for funding.

The first publication will take place after approval by the Commission. There is a 30-day comment period following the publication; therefore, rules approved by the Commission for this meeting will be considered for final approval and second publication at the October 2023 meeting.

Recommended motion (Committee):

Move that the committee send forward to the Commission and recommend approval of filing authorization of proposed amendments to Texas Administrative Code, Title 13, Part 2, Chapter 12, Sections 12.5, 12.7, and 12.9, related to the Texas Historic Courthouse Preservation Program for first publication in the *Texas Register*.

Recommended motion (Commission):

Move to approve the filing authorization of proposed amendments to Texas Administrative Code, Title 13, Part 2, Chapter 12, Sections 12.5, 12.7, and 12.9, related to the Texas Historic Courthouse Preservation Program for first publication in the *Texas Register*.

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Texas Administrative Code
Title 13 **Cultural Resources**
Part II **Texas Historical Commission**
Chapter 12 **Texas Historic Courthouse Preservation Program**

PREAMBLE

The Texas Historical Commission (Commission) proposes amendments to the Texas Administrative Code, Title 13, Part 2, Chapter 12, Sections 12.5, 12.7, and 12.9 related to the Texas Historic Courthouse Preservation Program.

Section 12.5 is revised to provide a clearer definition of “courthouse” and “historic courthouse” to align with the intention of the enabling statute that grants fund the preservation of buildings that serve or have served as the county courthouse. The definition of “historic courthouse structure” is eliminated to avoid redundancy with other definitions, and program eligibility requirements are consolidated in §12.7(a). Definitions of “full restoration” and “restoration period” are added to clarify the parameters for associated grants.

Section 12.7(d) is revised in consideration of Texas Government Code §442.0081(d)(2), which indicates that the commission will give preference to applicants providing at least 15% of the project cost but does not disallow a smaller match. The updated language allows the commission, at its sole discretion, to waive or modify the match requirements in this section.

Section 12.7(e)(3) is revised to reflect a change in the program cap from \$6 million to \$10 million, based on recent legislation that will go into effect on September 1, 2023 (Tex. S.B. 1332, 88 Leg., R.S. (2023), to be codified at Texas Government Code §442.0083(e)). Section 12.7(j) is revised to change a program requirement to a recommendation regarding future grant applications. Section 12.7(k) is added to address construction quality issues with completed projects and requires repayment of grants for repairs to poor-quality construction if funds are later recovered through litigation or other remedies.

Section 12.9 is revised to correct grammatical and citation errors, and §12.9(c)(23) is added to create a scoring category in consideration for counties continuing to apply for funding.

FISCAL NOTE. Mark Wolfe, Executive Director, has determined that for the first five-year period the amended rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these rules.

PUBLIC BENEFIT. Mr. Wolfe has also determined that for the first five-year period the amended rule is in effect, the public benefit will be the preservation of and education about state historic resources.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Wolfe has also determined that there will be no impact on rural communities, small businesses, or micro-businesses as a result of implementing these rules. Accordingly, no regulatory flexibility analysis, as specified in Texas Government Code § 2006.002, is required.

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ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT. There are no anticipated economic costs to persons who are required to comply with the amendments to these rules, as proposed. There is no effect on local economy for the first five years that the proposed new section is in effect; therefore, no local employment impact statement is required under Texas Government Code § 2001.022 and 2001.024(a)(6).

GOVERNMENT GROWTH IMPACT STATEMENT. Because the proposed amendments only concern clarifications to an existing program, during the first five years that the amendments would be in effect, the proposed amendments: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the amendments would be in effect, the proposed amendments will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. The Commission has determined that no private real property interests are affected by this proposal and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under Texas Government Code, § 2007.043.

PUBLIC COMMENT. Comments on the proposal may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY. These amendments are proposed under the authority of Texas Government Code § 442.005(q), which provides the Commission with the authority to promulgate rules to reasonably affect the purposes of the Commission, and Texas Government Code § 442.0081(h), which authorizes the Commission to adopt rules necessary to implement the Texas Historic Courthouse Preservation Program.

CROSS REFERENCE TO OTHER LAW. No other statutes, articles, or codes are affected by these amendments.

The Commission hereby certifies that the proposed amendments have been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

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TITLE 13 CULTURAL RESOURCES

PART 2 TEXAS HISTORICAL COMMISSION

CHAPTER 12 TEXAS HISTORIC COURTHOUSE PRESERVATION PROGRAM

§12.5 Definitions

When used in this chapter, the following words or terms have the following meanings unless the context indicates otherwise:

(1) Texas Historic Courthouse Preservation Program. Means the grant or loan program created by Texas Government Code §§442.0081 - 442.0083.

(2) The Courthouse Fund Account. Means a separate account in the general revenue fund. The account consists of transfers made to account, payment on loans made under the historic courthouse preservation program, grants and donations received for the purposes of the historic courthouse preservation program, and income earned on investments of money in the account.

(3) Texas Courthouse Preservation Program Advisory Committee. Means a committee that serves the commission in matters concerning the courthouse program.

(4) Courthouse. Means the principal building[(s)] which serves as the primary seat of [houses] county government [offices and courts] of the county in which it is located, and its [(their)] surrounding site[(s)] (typically the courthouse square). The courthouse includes additions or annexes physically attached to the building that were constructed for the purpose of expanding the functions of the courthouse, but it does not include other freestanding buildings on the site.

(5) Historic courthouse. Means a [county courthouse or] building that currently or previously served as a county courthouse, as defined in paragraph (4), and which entered service as a courthouse [that is] at least 50 years [old] prior to the due date of the grant application, [with the initial date of service defined as the date of] using the first [official] commissioners court meeting as its first date of service [in the building]. A historic courthouse may include additions or annexes physically attached to the courthouse for at least 50 years prior to the due date of the grant application.

(6) Historic courthouse project. Means an undertaking to preserve or restore a historic courthouse.

[(7) Historic courthouse structure. Means a courthouse structure that is a structure that currently or previously served as the official county courthouse of the county in which it is located; and that is:

(A) at least 50 years old prior to the date of application, with the initial date of service defined as the date of the first official commissioners court meeting in the building;

(B) listed on the National Register of Historic Places;

(C) designated a Recorded Texas Historic Landmark;

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(D) designated a State Antiquities Landmark;

(E) determined by the commission to qualify as an eligible property under the designations noted above;

(F) certified by the commission to the other state agencies as worthy of preservation; or,

(G) designated by an ordinance of a municipality with a population of more than 1.5 million as historic.]

(7[8]) Master preservation plan or master plan. Means a comprehensive planning document that includes the historical background of a courthouse, as well as a detailed analysis of its architectural integrity, current condition, and future needs for preservation. The commission shall promulgate specific guidelines for developing the document.

(8[9]) Conservation Easement. Means a voluntary legal agreement whereby the property owner grants the Commission an interest in the property for the purpose of preservation of historic, architectural, scenic and open space values, also may be called a preservation easement.

(9[10]) Construction Documents (also known as contract documents). Means the written and graphic instructions used for construction of a project which are prepared by an architect and their engineering consultants. May also be called architectural plans and specifications.

(10[11]) Restoration. Means the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restored period. (As defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised)).

(11[12]) Reconstruction. Means the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location. (As defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised)).

(12[13]) Preservation. Means the act or process of applying measures necessary to sustain the existing form, integrity, and materials of a historic property. (As defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised)).

(13[14]) Rehabilitation. Means the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features which convey its historical, cultural, or architectural values. (As defined by the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised)).

(14) Full restoration. Means a construction grant to undertake a project to restore a courthouse to its appearance at an agreed upon restoration period, which includes removing additions and alterations from later periods and reconstructing features missing from the restoration period. This treatment applies to

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the site, exterior of the courthouse, and interior public spaces such as the corridors, stairways, and courtrooms. Secondary spaces may be preserved or rehabilitated rather than restored. Additions or attached annexes must be removed if they post-date the selected restoration period. Retention or removal of site features from outside of the restoration period may be evaluated on a case-by-case basis.

(15) Restoration period. Means the date selected for the purpose of defining the full restoration of a courthouse, representing the most significant time in the courthouse's history. Selection of the restoration period must be justified based on documentary and physical evidence and surviving integrity of historic materials from that period, and it must be described in the master plan for the restoration project. The restoration period represents a time when the building in its entirety exhibited a cohesive architectural style exemplifying the work of an architect or a period when the building experienced a significant historical event.

(16[15]) Match requirement. Means the percentage of the total project cost that must be provided by a county or municipality.

(17[16]) Current cash match. Means monies to be paid by a county or municipality as part of the preservation project described in a current request for grant or loan funding.

(18[17]) Current in-kind match. Materials and labor to be donated as part of the preservation project described in a current request for grant or loan funding.

(19[18]) Planning match. Means county ~~[of]~~ or municipal monies spent on an approved master preservation plan or approved construction plans and specifications.

§12.7 Grant or Loan Program

(a) Property Eligibility. In order to be eligible for grants or loans under the courthouse program, a historic courthouse owned by either a county or municipality must be ~~[determined a historic courthouse structure as defined in §12.5 of this chapter.];~~

(1) listed in the National Register of Historic Places;

(2) designated a Recorded Texas Historic Landmark;

(3) designated a State Antiquities Landmark;

(4) determined by the commission to qualify as an eligible property under the designations noted above;

(5) certified by the commission as worthy of preservation; or,

(6) designated by an ordinance of a municipality with a population of more than 1.5 million as historic.

(b) Master plan requirement. In order to be eligible for funding, a county or municipality must have completed a current master preservation plan approved by the commission. The commission may require

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an outdated master plan be updated prior to the date of application or a before a grant or loan is approved.

(c) Types of Assistance. The commission may provide financial assistance in the form of grants or loans. Grant or loan recipients shall be required to follow the terms and conditions of the Texas Historic Courthouse Preservation Program and other terms and conditions imposed by the commission at the time of the grant award or loan.

(d) Match for grant or loan assistance. Applicants eligible to receive grant or loan assistance [must] should provide a minimum of 15% of the total project cost or other match requirements as determined by the commission. Credit toward the match may be given for a county's or municipality's prior capital and in-kind contributions and prior master planning costs [.], with not [Not] less than one half of the match [must be] derived from current cash match and/or planning match. In exceptional circumstances, the commission may, at its sole discretion, waive the match requirements and/or approve a larger credit toward prior expenditures.

(e) Allowable use of grant or loan monies.

(1) A county or municipality that receives money under the courthouse program must use the money only for preservation, reconstruction, rehabilitation, restoration or other expenses that the commission determines eligible.

(2) All work must comply with the Secretary of the Interior's Standards for the Treatment of Historic Properties (1995 edition, or as revised).

(3) Individual grants or loans may not exceed [\$6 (six)] \$10 (ten) million and the cumulative total may not exceed [\$6] \$10 (ten) million to any one county or municipality.

(4) The commission may grant a different amount than requested in a courthouse grant application.

(f) Administration. The courthouse program shall be administered by the commission.

(g) Advisory Committee.

(1) The commission may appoint Advisory Committees or other working groups to advise the commission on matters related to the Texas Historic Courthouse Preservation Program including courthouse maintenance.

(2) The commission should consider the following when selecting members of an advisory committee or working group:

(A) geographic diversity;

(B) population;

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(C) area of expertise; and/or

(D) representation of the public interest.

(h) Procedures. The commission shall adopt procedures, and revise them as necessary, to implement the Texas Historic Courthouse Preservation Program.

(i) Compliance with current program grant manual and all other rules, statutes, policies, procedures and directives is mandatory for all historic courthouse projects unless written exception is provided by the commission due to unforeseen circumstances beyond the control of grantee or grantor.

(j) Grants for Construction Plans and Specifications:

(1) The commission may make grants for the purpose of completing construction plans and specifications for courthouse construction projects.

(2) A county or municipality receiving a grant for completing plans and specifications **[must] is encouraged to** apply for a construction grant from this program at the next grant program funding opportunity following commission acceptance of the complete plans and specifications. In the subsequent grant application, the county or municipality **[must] should** provide at least an equal level of commitment to program components as provided in their previous funding applications. **[If a construction grant is awarded, the county or municipality must go forward with construction of the courthouse project so funded. If a grant is not awarded, the county or municipality must continue to apply for construction grants and make a good-faith effort to receive the grant when subsequent opportunities arise.**

(3) A county or municipality that does not apply for a construction grant in accordance with this section at each grant funding opportunity during the following six years or does not complete the courthouse project by other means within these six years following the commission's acceptance of the plans and specifications will be required to repay the grant for plans and specifications to the commission unless the commission votes to allow additional time to accomplish the construction project.

(4) A county or municipality that continues to apply for construction grants and makes a good-faith effort to receive the award and does not receive a grant or is able to complete the construction project by other good faith efforts will not be required to repay the grant.]

(k) Grants for Construction Defects:

(1) The commission may make grants for the purpose of remedying defects in construction quality from a previous grant-funded project. Before applying for such a grant, a county or municipality must first pursue repairs under warranty or administrative remedies with their contractor, architect, or other party at fault for the defect.

(2) If a county or municipality that receives a grant to remedy a construction defect later recovers funds related to the scope of the grant through litigation or a settlement agreement, the net amount recovered,

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minus court costs and attorney's fees, shall be ineligible for grant reimbursement. The commission may recapture the grant, or if the net amount recovered is insufficient to accomplish the full scope of work for the grant, the commission may revise the grant budget to consider such funds as the cash match and recapture the excess amount of the grant award. Further, the county or municipality must repay any such funds that were previously reimbursed, proportionate to the state share of the overall project costs.

§12.9 Application Requirements and Considerations

(a) A county or municipality that owns a historic courthouse may apply to the commission for a grant or loan for a historic courthouse project. The application must include:

- (1) the address of the courthouse;
- (2) a statement of the historic designations that the courthouse has or is likely to receive;
- (3) a statement of the amount of money that the county or municipality commits to contribute to the project;
- (4) a statement of previous county or municipal monies spent on planning which the county or municipality may be allowed as credit toward their match;
- (5) a statement of whether the courthouse is currently functioning as a courthouse or other public facility;
- (6) copies of any plans, including the required master preservation plan or construction plans and specifications, that the county or municipality may have for the project unless the commission already has these plans on file;
- (7) copies of existing deed covenants, restrictions or easements held by the commission or other preservation organizations;
- (8) statements of support from local officials and community leaders; **[and]**
- (9) the current cost estimate of the proposed project; and
- (10) any other information that the commission may require.

(b) The Texas Historic Courthouse Preservation Program will be a competitive process, with applications evaluated and grants awarded based on the factors provided in this section, including the amount of program money for grants.

- (1) Funding requests may be reduced by the commission to reflect ineligible project costs or smaller scopes or phases of work such as planning for the construction work.
- (2) The commission may adjust the amount of a previously awarded grant up and/or down based on the

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changing conditions of the property and the program.

(c) In considering whether to grant an application, the commission will assign weights to and consider each of the following factors:

- (1) the status of the building as a functioning courthouse;
- (2) the age of the courthouse;
- (3) the degree of endangerment;
- (4) whether the courthouse is subject to a current conservation easement or covenant held by the commission;
- (5) whether the proposal is in conformance with the approved master plan and addresses the current condition and needs of the property in proper sequence;
- (6) whether the county or municipality agrees to place/extend a preservation easement/covenant and/or deed restriction as part of the grant process;
- (7) the importance of the building within the context of an architectural style;
- (8) whether the proposal addresses and remedies former inappropriate changes;
- (9) the historic significance of the courthouse, as defined by 36 CFR [§101(a)(2)(A) and (E)] §60.4, and [NPS] National Park Service Bulletin 15, "How to Apply the National Register Criteria for Evaluation;"
- (10) the degree of surviving integrity of original design and materials;
- (11) if a county or municipality submits completed and commission-approved construction plans and specifications for proposed work at the time of the application, provided the plans and specifications comply with the previously approved master plan;
- (12) the use of the building as a courthouse after the project;
- (13) the county's or municipality's provision of a match greater than 15% of the grant request;
- (14) the degree to which the proposal achieves a fully restored county courthouse;
- (15) the status of the courthouse in terms of state and local historical designations that are in place;
- (16) the county or municipal government's provision of preservation incentives and support of the county historical commission and other county-wide preservation efforts;
- (17) the location of the county in a region with few awarded courthouse grant applications;

TEXAS HISTORICAL COMMISSION

(18) the existence of a plan for physically protecting county records during the restoration and afterwards, as well as an assessment of current and future space needs and public accessibility for such records, if county-owned;

(19) the existence of a strong history of compliance with the state courthouse law (Texas Government Code, §[§]442.008[1 - 442.0083] and the Antiquities Code of Texas, Texas Natural Resources Code Chapter 191);

(20) the effort to protect and enhance surrounding historic resources;

(21) the evidence of community support and county or municipality commitment to protection; **[and]**

(22) the applicant's local funding capacity as measured by the total taxable value of properties in the jurisdiction[.]; **and**

(23) the number of prior cycles in which a county has applied for and not received a full restoration grant.

(d) Other Considerations.

(1) The factors noted in subsection (c) of this section, and any additional ones determined necessary by the commission, will be published prior to each individual grant round as part of the formal procedures for the round.

(2) The commission may distribute a portion of the funds available for each grant period to be used for specific purposes on an expedited basis and/or granted through different criteria than other funds. Such specific purposes may include, but are not limited to, the following:

(A) Emergency repairs necessary to address or prevent catastrophic damage to the courthouse; or

(B) Compliance with the Americans with Disabilities Act or other state or federally mandated repairs or modifications; or

(C) Previously awarded projects that require additional funding to accomplish the intended goals of the project; or

(D) Updates to approved courthouse preservation master plans.

(3) Any such distribution to a specific purpose or change in criteria must be decided by a vote of the commission and advertised to the potential grantees prior to the date for the submission of applications.

(e) As a condition for a county or municipality to receive money under the courthouse fund, the commission may require creation of a conservation easement on the property, and may require creation of other appropriate covenants in favor of the state. The highest preference will be given to counties agreeing to the above referenced easements or covenants at the time of application.

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- (f) The commission shall provide oversight of historic courthouse projects.
 - (1) The commission may make periodic inspections of the projects during construction and/or upon and following completion to ensure compliance with program rules and procedures.
 - (2) The commission may require periodic reports to ensure compliance with program rules and procedures and as a prerequisite to disbursement of grant or loan funds.
 - (3) The commission may adopt additional procedures to ensure program compliance.

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Item 8.4

Texas Historical Commission
July Quarterly Meeting
July 20–21, 2023

Discussion and possible action regarding supplemental funding to previously awarded Texas Historic Courthouse Preservation Program projects in consideration of increased program cap

Background:

The 88th Legislature recently raised the cumulative cap on Texas Historic Courthouse Preservation Program (THCPP) grants from \$6 to \$10 million through S.B. 1332. The cap increase will take effect on September 1, 2023. Due to the previous cap of \$6 million and skyrocketing construction costs, counties in the last few rounds have taken on a much greater financial burden. In consideration of the increased program cap, staff is seeking direction from the Commission regarding whether to invite current grant recipients to submit requests for supplemental funding, and if so, to define parameters for funding requests to be considered at a future Executive Committee meeting.

Early in the program, most counties were able to complete a full restoration for between \$3 and \$4 million, allowing them to contribute the program minimum match of 15%, using grant-funded planning documents. The cap has not been raised in over 15 years, causing subsequent grant recipients to pay ever higher local matches and making a full restoration unattainable for many counties. In recent grant cycles, THCPP planning grants effectively increase the local match a county pays toward their construction project, so many counties now self-fund their architectural plans and specifications, further increasing their financial contribution. Based on cost estimates prepared by their architects, Round XI and XII applicants committed to matches as high as \$8 million, which is a substantial burden for the poorer, more rural counties in the state. Once projects went to bid, costs increased by between 20% and 140%, and local matches are now as high as \$15.5 million. Counties that received full restoration grants in Round XII must decide whether to accept bids that are being held by contractors until early September. If bids aren't accepted, costs will only increase more when the projects re-bid. Two of these counties have already decided that they cannot manage the increased cost without additional grant funding from the THC, and they may return their Round XII grants and reapply in Round XIII.

The program rules allow the THC to increase grant amounts based upon program or project changes, and there is \$4 million now available to all Round XI and XII grant recipients due to the cap increase. In the attached analysis, three scenarios are presented for supporting Rounds XI and XII projects (Funding Plan A) or only Round XII projects (Funding Plan B). All Round XI projects have been under construction for some time, and many will be completing their projects in the next few months. Of the Round XII projects, only Wise County is under contract for their full restoration, and Upshur County is expected to sign a contract for construction in the next few weeks. Hall and Kimble Counties have held off on signing a contract because they are unable to cover their cost overruns due to already financially straining their resources with the cash match they offered in their grant applications. Both Hall and Kimble Counties have stated that they only offered their large cash matches due to the limitations of the \$6 million cap, noting that their entire annual budget is less than their project costs. (Please see the letter from Hall County in the following pages.)

It is important to note that the \$45 million appropriation for Round XIII can fund about four full restoration projects and a few emergency or planning projects, so supplementing the Round XI and/or XII projects will reduce the amount of money that can be awarded. And yet, supplementing the existing Round XII grants will cost the program less money than if any of the Round XII grant recipients return their grants and reapply in Round XIII with a higher project cost and a lower match percentage, as allowed by the increased cap.

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Funding Plan A supplements all Round XI and XII construction projects using one of the following three Scenarios A1, A2, or A3 and **Funding Plan B** only supplements Round XII construction projects, which are not yet under construction, using one of the following three Scenarios B1, B2, or B3.

Scenario 1 (A1 or B1)

In **Scenario 1**, the local match percentage agreed to in the grant application and Funding Agreement is held, which means that the state contribution and the local cash contribution both increase proportionally as the project cost increases. It is this match percentage that is used to calculate an applicant's Overmatch score. Due to significant increases in project costs, this will mean that the county's cash match increase could be significant, even if the original match percentage is maintained.

Grant Funds Balance from \$45 Million Appropriation:

- A1, Round XI and XII projects (all under construction): **\$30,868,853.**
- B1, Round XII projects only (not yet under construction): **\$38,882,286.**

Scenario 2 (A2 or B2)

In **Scenario 2**, supplemental funding would eliminate the cash match increase for grant recipients, holding counties to their original cash match commitment by increasing the percentage of the project cost covered by the state. Scenario 1 would help the poorest counties since their cash commitment was carefully budgeted and cannot be exceeded without significant strain.

Grant Funds Balance from \$45 Million Appropriation:

- A2, Round XI and XII projects (all under construction): **\$23,334,517.**
- B2, Round XII projects only (not yet under construction): **\$34,794,173.**

Scenario 3 (A3 or B3)

In **Scenario 3**, the THC would award the maximum allowable grant award, considering the increased cap, and has been prepared to illustrate the maximum amount counties would be eligible to receive. All Round XI and XII grant recipients reached the \$6 million cap, and considering a 15% minimum local match, an additional \$4 million could be awarded to all eight grant recipients, except Lipscomb County that would receive \$3.7 million due to their lower project cost. Scenario 3 would substantially deplete the funding available to award in Round XIII.

Grant Funds Balance from \$45 Million Appropriation:

- A3, Round XI and XII projects (all under construction): **\$13,898,818.**
- B3, Round XII projects only (not yet under construction): **\$29,569,345.**

Please see analyses of Round XI and XII construction projects and layouts of Scenarios A1, A2, A3, B1, B2, and B3 on the following pages.

TEXAS HISTORICAL COMMISSION

Motion Option 1—Funding Plan A (Committee):

Move to send forward to the Commission and recommend inviting Round XI and XII grant recipients to request supplemental funding with a maximum possible request as outlined in Scenario [A1, A2, or A3], and recommend the Commission delegate authority to make grant awards to the Executive Committee.

Motion Option 2—Funding Plan B (Committee):

Move to send forward to the Commission and recommend inviting Round XII grant recipients to request supplemental funding with a maximum possible request as outlined in Scenario [B1, B2 or B3], and recommend the Commission delegate authority to make grant awards to the Executive Committee.

Motion Option 3 (Committee):

Move to send forward to the Commission and recommend rejection of Funding Plan A and Funding Plan B.

Motion Option 1—Funding Plan A (Commission):

Move to invite Round XI and XII grant recipients to request supplemental funding with a maximum possible request as outlined in Scenario [A1, A2, or A3], and delegate authority to make grant awards to the Executive Committee.

Motion Option 2—Funding Plan B (Commission):

Move to invite Round XII grant recipients to request supplemental funding with a maximum possible request as outlined in Scenario [B1, B2 or B3], and delegate authority to make grant awards to the Executive Committee.

Motion Option 3 (Commission):

Move to reject Funding Plan A and Funding Plan B.

Analysis of Round XI and XII Construction Projects and Cap Increase

Funding Plan A (Supplement Round XI and XII Construction Projects Including those Already Under Construction or Nearly Complete)										Scenario A1		Scenario A2		Scenario A3	
Round	County	Original Grant	Funding Agreement Project Cost	Current Project Cost	Currently Under Contract?	Match % in Funding Agreement (Overmatch Points)	Anticipated Local Cash Match from Grant Application	Current Local Cash Match Required without Supplemental Funding	Current Local Cash Match Increase without Supplemental Funding	Supplemental Grant Award if Original Local Match % Maintained	Local Cash Match Increase	Supplemental Grant Award to Cover Cash Match Increase	Local Cash Match Increase	Supplemental Grant Award if Local Match Reduced as Much as New Cap Allows	Local Cash Match Increase (or Decrease)
11	Callahan	\$ 4,684,891	\$ 9,829,904	\$ 9,829,904	Yes	52%	\$ 5,145,013	\$ 5,145,013	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,670,527	\$ (3,670,527)
11e	Lee	\$ 1,970,149	\$ 5,070,600	\$ 8,530,256	Yes	61%	\$ 3,100,451	\$ 6,560,107	\$ 3,459,656	\$ 1,344,227	\$ 2,115,429	\$ 3,459,656	\$ -	\$ 4,000,000	\$ (540,344)
11	Polk	\$ 4,744,746	\$ 10,103,625	\$ 15,787,523	Yes	53%	\$ 5,358,879	\$ 11,042,777	\$ 5,683,898	\$ 2,669,206	\$ 3,014,692	\$ 4,000,000	\$ 1,683,898	\$ 4,000,000	\$ 1,683,898
11	Taylor	\$ 5,980,000	\$ 8,977,216	\$ 21,476,780	Yes	33%	\$ 2,997,216	\$ 15,496,780	\$ 12,499,564	\$ 4,000,000	\$ 8,499,564	\$ 4,000,000	\$ 8,499,564	\$ 4,000,000	\$ 8,499,564
12	Hall	\$ 5,953,345	\$ 9,222,471	\$ 11,040,000	No	35%	\$ 3,269,126	\$ 5,086,655	\$ 1,817,529	\$ 1,173,262	\$ 644,267	\$ 1,817,529	\$ -	\$ 3,430,655	\$ (1,613,126)
12	Kimble	\$ 5,294,242	\$ 9,406,432	\$ 11,483,949	No	44%	\$ 4,112,190	\$ 6,189,707	\$ 2,077,517	\$ 1,169,293	\$ 908,224	\$ 2,077,517	\$ -	\$ 4,000,000	\$ (1,922,483)
12	Upshur	\$ 5,218,363	\$ 12,839,123	\$ 15,149,904	No	59%	\$ 7,620,760	\$ 9,931,541	\$ 2,310,781	\$ 939,199	\$ 1,371,582	\$ 2,310,781	\$ -	\$ 4,000,000	\$ (1,689,219)
12	Wise	\$ 5,162,347	\$ 9,473,201	\$ 14,677,349	Yes	46%	\$ 4,310,854	\$ 9,515,002	\$ 5,204,148	\$ 2,835,960	\$ 2,368,188	\$ 4,000,000	\$ 1,204,148	\$ 4,000,000	\$ 1,204,148
TOTAL SUPPLEMENTAL GRANT AWARDS										\$ 14,131,147		\$ 21,665,483		\$ 31,101,182	
ROUND XIII GRANT FUNDS BALANCE										\$ 30,868,853		\$ 23,334,517		\$ 13,898,818	

Funding Plan B (Fund Only Round XII Projects Not Yet Under Construction)										Scenario B2		Scenario B1		Scenario B3	
Round	County	Original Grant	Funding Agreement Project Cost	Current Project Cost	Currently Under Contract?	Match % in Funding Agreement (Overmatch Points)	Anticipated Local Cash Match from Grant Application	Current Local Cash Match Required without Supplemental Funding	Current Local Cash Match Increase without Supplemental Funding	Supplemental Grant Award if Original Local Match % Maintained	Local Cash Match Increase	Supplemental Grant Award to Cover Cash Match Increase	Local Cash Match Increase	Supplemental Grant Award if Local Match Reduced as Much as New Cap Allows	Local Cash Match Increase (or Decrease)
12	Hall	\$ 5,953,345	\$ 9,222,471	\$ 11,040,000	No	35%	\$ 3,269,126	\$ 5,086,655	\$ 1,817,529	\$ 1,173,262	\$ 644,267	\$ 1,817,529	\$ -	\$ 3,430,655	\$ (1,613,126)
12	Kimble	\$ 5,294,242	\$ 9,406,432	\$ 11,483,949	No	44%	\$ 4,112,190	\$ 6,189,707	\$ 2,077,517	\$ 1,169,293	\$ 908,224	\$ 2,077,517	\$ -	\$ 4,000,000	\$ (1,922,483)
12	Upshur	\$ 5,218,363	\$ 12,839,123	\$ 15,149,904	No	59%	\$ 7,620,760	\$ 9,931,541	\$ 2,310,781	\$ 939,199	\$ 1,371,582	\$ 2,310,781	\$ -	\$ 4,000,000	\$ (1,689,219)
12	Wise	\$ 5,162,347	\$ 9,473,201	\$ 14,677,349	Yes	46%	\$ 4,310,854	\$ 9,515,002	\$ 5,204,148	\$ 2,835,960	\$ 2,368,188	\$ 4,000,000	\$ 1,204,148	\$ 4,000,000	\$ 1,204,148
TOTAL SUPPLEMENTAL GRANT AWARDS										\$ 6,117,715		\$ 10,205,827		\$ 15,430,655	
ROUND XIII GRANT FUNDS BALANCE										\$ 38,882,285		\$ 34,794,173		\$ 29,569,345	

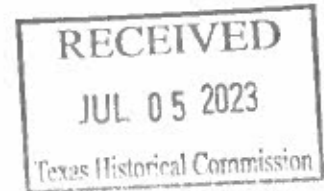
THE COUNTY OF HALL

Ray Powell, County Judge
512 West Main Street, Suite 4
Memphis, Texas 79245



Pauline Johnsey, Administrative Asst.
(806) 259-2511
(806) 259-3083 FAX

Memphis, Texas



June 28, 2023

DOA

Mr. Mark Wolfe, Executive Director
Texas Historical Commission
P.O. Box 12276
Austin, Texas 78711-2276

Dear Mr. Wolfe:

The estimate to restore the Hall County Courthouse was \$9,222,741 as stated in our application for Texas Historic Courthouse Preservation Program funding. The Texas Historical Commission voted to award \$5,953,345 to our County for the project. (Prior award of \$46,655 was made to Hall County for professional expenses to update our Historic Courthouse Preservation Master Plan with total award \$6,000,000.)

We, Hall County, averaged the contractor restoration budget up to \$9,500,000 and decided to utilize Certificates of Obligation Bonds in the amount of \$4,000,000 for \$10,000,000 total. We believed that this would leave a balance of \$500,000 to cover additional items that could not be paid for with Historical Commission Grant funds. Voters had agreed to \$4,000,000 from the selling of bonds in a special election. We cannot ask the voters for more.

The current revised bid for the project is \$11,040,000. Hall County will be short \$1,040,000 for the Contractor restoration of the Hall County Courthouse, which the Contractor has guaranteed until the end of July. We really need \$1,540,000 additional assistance from the Texas Historic Courthouse Preservation Program to cover expenses of approximately \$500,000 the Historical Commission will not pay, for a grand total Grant of \$7,540,000 to allow preservation of our Historic Hall County Courthouse.

Hall County is an agricultural county and has no supplemental types of income such as wind energy, solar energy, oil or gas. County income is from ad valorem taxes, fines, and fees. Hall County citizens will be proud and energized to have a newly restored Courthouse, but we sure need increased grant funding from the Texas Historical Commission to make it happen.

Respectfully,

Ray Powell

Ray Powell
Hall County Judge



TEXAS HISTORICAL COMMISSION

Item 8.5

Texas Historical Commission
July Quarterly Meeting
July 20–21, 2023

Consider filing authorization of proposed amendments to sections 13.1, 13.2, and 13.3 of Texas Administrative Code, Title 13, Part 2, Chapter 13 related to the Texas Historic Preservation Tax Credit Program for first publication and public comment in the *Texas Register*

Background:

The proposed amendments to Sections 13.1, 13.2, and 13.3 edit citations to the Texas Tax Code where the tax credit program is established. Legislation for the Texas Historic Preservation Tax Credit Program has resided in Subchapter S of Chapter 171 of the code, which defines the state's franchise tax. Legislation that goes into effect on September 1, 2023 will move Subchapter S from Chapter 171 into its own chapter, Chapter 172 (Tex. S.B. 1013, 88 Leg., R.S. (2023)). All language in the rules remains the same, except for seven references directly to Chapter 171 of the Texas Tax Code. These are now proposed to reference Chapter 172.

References to the Texas Tax Code are located in Sections 13.1, 13.2, and 13.3.

The first publication will take place after approval by the Commission. There is a 30-day comment period following the publication; therefore, rules approved by the Commission for this meeting will be considered for final approval and second publication at the October 2023 meeting.

Recommended motion (Committee):

Move that the committee send forward to the Commission and recommend approval of filing authorization of proposed amendments to Texas Administrative Code, Title 13, Part 2, Chapter 13, Sections 13.1, 13.2, and 13.3, related to the Texas Historic Preservation Tax Credit Program for first publication in the *Texas Register*.

Recommended motion (Commission):

Move to approve the filing authorization of proposed amendments to Texas Administrative Code, Title 13, Part 2, Chapter 13, Sections 13.1, 13.2, and 13.3, related to the Texas Historic Preservation Tax Credit Program for first publication in the *Texas Register*.

TEXAS HISTORICAL COMMISSION

Texas Administrative Code

Title 13 Cultural Resources

Part II Texas Historical Commission

Chapter 13 Texas Historic Preservation Tax Credit Program

PREAMBLE

The Texas Historical Commission (Commission) proposes amendments to the Texas Administrative Code, Title 13, Part 2, Chapter 13, Sections 13.1, 13.2, and 13.3, related to the Texas Historic Preservation Tax Credit Program. The amendments are to Texas Tax Code citations.

Legislation for the Texas Historic Preservation Tax Credit Program has resided in Subchapter S of Chapter 171 of the code, which defines the state's franchise tax. Legislation that goes into effect on September 1, 2023 will move Subchapter S from Chapter 171 into its own chapter, Chapter 172 (Tex. S.B. 1013, 88 Leg., R.S. (2023)). All language in the rules remains the same, except for seven references directly to Chapter 171 of the Texas Tax Code. These are now proposed to reference Chapter 172.

FISCAL NOTE. Mark Wolfe, Executive Director, has determined that for the first five-year period the amended rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these rules.

PUBLIC BENEFIT. Mr. Wolfe has also determined that for the first five-year period the amended rule is in effect, the public benefit will be the preservation of and education about state historic resources.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS FOR SMALL BUSINESSES, MICROBUSINESSES, AND RURAL COMMUNITIES. Mr. Wolfe has also determined that there will be no impact on rural communities, small businesses, or micro-businesses as a result of implementing these rules. Accordingly, no regulatory flexibility analysis, as specified in Texas Government Code § 2006.002, is required.

ECONOMIC COSTS TO PERSONS AND IMPACT ON LOCAL EMPLOYMENT. There are no anticipated economic costs to persons who are required to comply with the amendments to these rules, as proposed. There is no effect on local economy for the first five years that the proposed new section is in effect; therefore, no local employment impact statement is required under Texas Government Code § 2001.022 and 2001.024(a)(6).

GOVERNMENT GROWTH IMPACT STATEMENT. Because the proposed amendments only concern clarifications to an existing program, during the first five years that the amendments would be in effect, the proposed amendments: will not create or eliminate a government program; will not result in the addition or reduction of employees; will not require an increase or decrease in future legislative appropriations; will not lead to an increase or decrease in fees paid to a state agency; will not create a new regulation; will not repeal an existing regulation; and will not result in an increase or decrease in the number of individuals subject to the rule. During the first five years that the amendments would be in effect, the proposed amendments will not positively or adversely affect the Texas economy.

TAKINGS IMPACT ASSESSMENT. The Commission has determined that no private real property interests are affected by this proposal and the proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not

TEXAS HISTORICAL COMMISSION

constitute a taking under Texas Government Code, § 2007.043.

PUBLIC COMMENT. Comments on the proposal may be submitted to Mark Wolfe, Executive Director, Texas Historical Commission, P.O. Box 12276, Austin, Texas 78711. Comments will be accepted for 30 days after publication in the *Texas Register*.

STATUTORY AUTHORITY. These amendments are proposed under the authority of Texas Government Code § 442.005(q), which provides the Commission with the authority to promulgate rules to reasonably affect the purposes of the Commission, and Texas Government Code § 172.110, of the Texas Tax Code, which authorizes the Commission to adopt rules necessary to implement the Tax Credit for Certified Rehabilitation of Certified Historic Structures.

CROSS REFERENCE TO OTHER LAW. No other statutes, articles, or codes are affected by these amendments.

The Commission hereby certifies that the proposed amendments have been reviewed by legal counsel and found to be a valid exercise of the agency's authority.

TEXAS HISTORICAL COMMISSION

Texas Administrative Code

Title 13 Cultural Resources

Part 2 Texas Historical Commission

Chapter 13 Texas Historic Preservation Tax Credit Program

§13.1 Definitions

The following words and terms when used in these rules shall have the following meanings unless the context clearly indicates otherwise:

(1) Applicant--The entity that has submitted an application for a building or structure it owns or for which it has a contract to purchase.

(2) Application--A fully completed Texas Historic Preservation Tax Credit Application form submitted to the Commission, which includes three parts:

(A) Part A - Evaluation of Significance, to be used by the Commission to make a determination whether the building is a certified historic structure;

(B) Part B - Description of Rehabilitation, to be used by the Commission to review proposed projects for compliance with the Standards for Rehabilitation; and

(C) Part C - Request for Certification of Completed Work, to be used by the Commission to review completed projects for compliance with the work approved under Part B.

(3) Application fee--The fee charged by the Commission and paid by the applicant for the review of Part B and Part C of the application as follows:

Figure: 13 TAC §13.1(3) (No change.)

(4) Audited cost report--Such documentation as defined by the Comptroller in 34 TAC Chapter 3, Tax Administration.

(5) Building--Any edifice enclosing a space within its walls, and usually covered by a roof, the purpose of which is principally to shelter any form of human activity, such as shelter or housing, or to provide working, office, parking, display, or sales space. The term includes, among other examples, banks, office buildings, factories, warehouses, barns, railway or bus stations, and stores and may also be used to refer to a historically and functionally related unit, such as a courthouse and jail or a house and barn. Functional constructions made usually for purposes other than creating human shelter or activity such as bridges, windmills, and towers are not considered buildings under this definition and are not eligible to be certified historic structures.

(6) Certificate of Eligibility--A document issued by the Commission to the owner, following review and approval of a Part C application, that confirms the property to which the eligible costs and expenses relate is a certified historic structure and the rehabilitation qualifies as a certified rehabilitation; and specifies the date the certified historic structure was first placed in service after the rehabilitation.

TEXAS HISTORICAL COMMISSION

(7) Certified historic structure--A building or buildings located on a property in Texas that is certified by the Commission as:

(A) listed individually in the National Register of Historic Places;

(B) designated as a Recorded Texas Historic Landmark under §442.006, Texas Government Code, or as a State Antiquities Landmark under Chapter 191, Texas Natural Resources Code; §21.6 and §26.3(66) and (67) of this title (relating to Recorded Texas Historic Landmark Designation and Definitions, respectively); or

(C) certified by the Commission as contributing to the historic significance of:

(i) a historic district listed in the National Register of Historic Places; or

(ii) a certified local district as per 36 CFR §67.9.

(8) Certified local district--A local historic district certified by the United States Department of the Interior in accordance with 36 CFR §67.9.

(9) Certified rehabilitation--The rehabilitation of a certified historic structure that the Commission has certified as meeting the Standards for Rehabilitation. If the project is submitted for the federal rehabilitation tax credit, it must be reviewed by the National Park Service prior to a determination that it meets the requirements for a certified rehabilitation under this rule. In the absence of a determination for the federal rehabilitation tax credit, the Commission shall have the sole responsibility for certifying the project.

(10) Commission--The Texas Historical Commission.

(11) Comptroller--The Texas Comptroller of Public Accounts.

(12) Contributing--A building in a historic district considered to be historically, culturally, or architecturally significant according to the criteria established by state or federal government, including those formally promulgated by the National Park Service and the United States Department of the Interior at 36 CFR Part 60 and applicable National Register bulletins.

(13) Credit--The tax credit for the certified rehabilitation of certified historic structures available pursuant to Chapter [172 \[171, Subchapter S\]](#) of the Texas Tax Code.

(14) District--A geographically definable area, urban, or rural, possessing a significant concentration, linkage, or continuity of sites, building, structures, or objects united by past events geographically but linked by association or history.

(15) Eligible costs and expenses--The qualified rehabilitation expenditures as defined by §47(c)(2), Internal Revenue Code, including rehabilitation expenses as set out in 26 CFR §1.48-12(c), incurred during the project, except as otherwise specified in Chapter [172 \[171, Subchapter S\]](#) of the Texas Tax Code.

(16) Federal rehabilitation tax credit--A federal tax credit for 20% of qualified rehabilitation expenditures with respect to a certified historic structure, as defined in §47, Internal Revenue

TEXAS HISTORICAL COMMISSION

Code; 26 CFR §1.48-12; and 36 CFR Part 67.

(17) Functionally related buildings--A collection of buildings that were constructed or used to serve and support an overall single purpose during their period of significance. Examples include but are not limited to: a residence and carriage house; a multi-building apartment complex; a multi-building industrial or commercial complex; or buildings constructed as a campus. Buildings within a typical neighborhood or downtown commercial historic district, among other property types, do not count as functionally related buildings with other buildings in the district, unless there is a certain historical attachment other than community development. Functionally related buildings owned by one entity are viewed as a single property while those owned by separate entities are viewed as separate properties.

(18) National Park Service--The agency of the U.S. Department of the Interior that is responsible for certifying projects to receive the federal rehabilitation tax credit.

(19) Owner--A person, partnership, company, corporation, whether for profit or not, governmental body, an institution of higher education or university system or any other entity holding a legal or equitable interest in a Property or Structure, which can include a full or partial ownership interest. Not all of these owner entities can qualify as an applicant for the credit, based on the requirements listed in Chapter [172 \[171, Subchapter S\]](#) of the Texas Tax Code. A long-term lessee of a property may be considered an owner if their current lease term is at a minimum 27.5 years for residential rental property or 39 years for nonresidential real property, as referenced by §47(c)(2), Internal Revenue Code.

(20) Phased development--A rehabilitation project which may reasonably be expected to be completed in two or more distinct states of development, as defined by United States Treasury Regulation 26 CFR §1.48-12(b)(2)(v). Each phase of a phased development can independently support an Application for a credit as though it was a stand-alone rehabilitation, as long as each phase meets the definition of a Project. If any completed phase of the rehabilitation project does not meet the requirements of a certified rehabilitation, future applications by the same owner for the same certified historic structure will not be considered.

(21) Placed in Service--A status obtained upon completion of the rehabilitation project as described in Part B of the application, and any subsequent amendments, and documented in Part C of the application. Evidence of the date a property is placed in service includes a certificate of occupancy issued by the local building official and/or an architect's certificate of substantial completion. Other documents will suffice when certificates of occupancy and/or substantial completion are not available for a specific project, including final contractor invoices or other verifiable statements of completion. Alternate documents should be approved by the Commission before submission. Placed in Service documentation must indicate the date that work was completed.

(22) Project--A specified scope of work, as described in a rehabilitation plan submitted with Part B of the application and subsequent amendments, comprised of work items that will be fully completed and Placed in Service. Examples of a project may include, but are not limited to, a whole building rehabilitation, rehabilitation of individual floors or spaces within a building, repair of building features, or replacement of building systems (such as mechanical, electrical, and plumbing systems). Partial or incomplete scopes of work, such as project planning and

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design, demolition, or partial completion of spaces, features, or building systems are not included in this definition as projects. Per §13.6(f) of this title (relating to Application Review Process), the Commission's review encompasses the entire building and site even if other work items are not included in a submitted project.

(23) Property--A parcel of real property containing one or more buildings or structures that is the subject of an application for a credit.

(24) Rehabilitation--The process of returning a building or buildings to a state of utility, through repair or alteration, which makes possible an efficient use while retaining those portions and features of the building and its site and environment which are significant.

(25) Rehabilitation plan--Descriptions, drawings, construction plans, and specifications for the proposed rehabilitation of a certified historic structure in sufficient detail to enable the Commission to evaluate compliance with the Standards for Rehabilitation.

(26) Standards for Rehabilitation--The United States Secretary of the Interior's Standards for Rehabilitation as defined by the National Park Service in 36 CFR §67.7.

(27) Structure--A building; see also certified historic structure. "Structure" may be used in place of the word "building," but all tax credit projects must involve rehabilitation of a building as defined in §13.1(5) of this title.

(28) Tax Credit--A credit earned against either the state franchise tax or the insurance premium tax per Chapter [172 \[171\]](#) of the Texas Tax Code and any limitations provided therein.

§13.2 Qualification Requirements

(a) Qualification for credit.

(1) An Owner is eligible for a credit for eligible costs and expenses incurred in the certified rehabilitation of a certified historic structure if:

(A) the rehabilitated certified historic structure is placed in service on or after September 1, 2013;

(B) the Owner has an ownership interest in the certified historic structure in the year during which the structure is placed in service after the rehabilitation; and

(C) the total amount of the eligible costs and expenses incurred exceeds \$5,000.

(2) A property for which eligible costs and expenses are submitted for the credit must meet Internal Revenue Code §47(c)(2) which includes:

(A) non-residential real property;

(B) residential rental property; or

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(C) other property types exempted from parts of Internal Revenue Code §47(c)(2) as described in Chapter [172 \[171, Subchapter S\]](#) of the Texas Tax Code.

(b) Eligible costs and expenses. Eligible costs and expenses means those costs and expenses allowed pursuant to Internal Revenue Code §47(c)(2) or as exempted by Chapter [172 \[171, Subchapter S\]](#) of the Texas Tax Code. Such eligible costs and expenses, include, but are not limited to:

(1) expenditures associated with structural components as defined by United States Treasury Regulation §1.48-1(e)(2) including walls, partitions, floors, ceilings, windows and doors, stairs, elevators, escalators, sprinkler systems, fire escapes, components of central air conditioning, heating, plumbing, and electrical systems, and other components related to the operation or maintenance of the building;

(2) architectural services;

(3) engineering services;

(4) construction management and labor, materials, and reasonable overhead;

(5) subcontracted services;

(6) development fees;

(7) construction period interest and taxes; and

(8) other items referenced in Internal Revenue Code §47(c)(2).

(c) Ineligible costs and expenses. Eligible costs and expenses as defined in Internal Revenue Code §47(c)(2) do not include the following:

(1) the cost of acquiring any interest in the property;

(2) the personal labor by the applicant;

(3) any cost associated with the enlargement of an existing building;

(4) site work expenditures, including any landscaping, sidewalks, paving, decks, outdoor lighting remote from the building, fencing, retaining walls or similar expenditures; or

(5) any cost associated with the rehabilitation of an outbuilding or ancillary structure unless it is certified by the Commission to contribute to the historical significance of the property.

(d) Eligibility date for costs and expenses.

(1) Part A of the Texas Historic Preservation Tax Credit Certification Application must be submitted prior to the building being placed in service per §13.1(21) of this title (relating to Definitions). Projects that have been placed in service prior to submission of Part A of the application do not qualify for the program.

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(2) While the credit may be claimed for eligible costs and expenses incurred prior to the filing of an application, potential applicants are urged to file Parts A and B of the application at the earliest possible date. This will allow the Commission to review the application and provide guidance to the applicant that will increase the chances that the application will ultimately be approved and the credit received.

(e) Phased development. Part B applications for rehabilitation of the same certified historic structure may be submitted by the same owner only if they describe clearly defined phases of work that align with a cost report that separates the eligible costs and expenses by phase. Separate Part B and C applications shall be submitted for review by the Commission prior to issuance of a certificate of eligibility for each phase.

(f) Amount of credit. The total amount of credit available is twenty-five percent (25%) of the aggregate eligible costs and expenses incurred in the certified rehabilitation of the certified historic structure.

§13.3 Evaluation of Significance

(a) Application Part A - Evaluation of Significance. Part A of the application requires information to allow the Commission to evaluate whether a building is a certified historic structure and shall be completed for all buildings to be included in the project. Part A of the application is evaluated against criteria for significance and integrity issued by the National Park Service.

(b) Application Requirements. Information to be submitted in Part A of the application includes:

(1) Name, mailing address, telephone number, and email address of the property owner(s) and Applicant if different from the Owner;

(2) Name and address of the property;

(3) Name of the historic district, if applicable;

(4) Current photographs of the building and its site, showing exterior and interior features and spaces adequate to document the property's significance. Photographs must be formatted as directed by the Commission in published program guidance materials on the Commission's online Texas Historic Preservation Tax Credit Application Guide available by accessing thc.texas.gov;

(5) Date of construction of the property;

(6) Brief description of the appearance of the property, including alterations, characteristic features, and estimated date or dates of construction and alterations;

(7) Brief statement of significance summarizing why a property is:

(A) eligible for individual listing in the National Register of Historic Places;

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(B) contributes to a historic district listed in the National Register of Historic Places or a certified local district; or

(C) contributes to a potential historic district, accompanied by:

(i) a map showing the boundary of the potential historic district and the location of the property within the district;

(ii) photographs of other properties in the district; and

(iii) justification for the district's eligibility for listing in the National Register of Historic Places;

(8) A map showing the location of the historic property;

(9) Signature of the Owner, and Applicant if different from the Owner, requesting the determination; and

(10) Other information required on the application by the Commission.

(c) Consultation with Commission. Any person may informally consult with the Commission to determine whether a property is:

(1) listed individually in the National Register of Historic Places;

(2) designated as a Recorded Texas Historic Landmark or State Antiquities Landmark; or

(3) certified by the Commission as contributing to the historic significance of a historic district listed in the National Register of Historic Places or a certified local district.

(d) Automatic qualification as certified historic structure. If a property is individually listed in the National Register of Historic Places or designated as a Recorded Texas Historic Landmark or State Antiquities Landmark, then it is a certified historic structure and should be indicated as such on Part A of the application.

(e) Preliminary determination of significance. An Applicant for a property not listed in the National Register of Historic Places, neither individually nor as a contributing element to a historic district; not designated a Recorded Texas Historic Landmark nor State Antiquities Landmark; and not listed in a certified local district may obtain a preliminary determination from the Commission as to whether the property is individually eligible to become a certified historic structure or is eligible as a contributing structure in a potential historic district by submitting Part A of the application. Determination will be based on criteria for listing in the National Register of Historic Places. Applications for a preliminary determination of significance must show how the property meets one of the following criteria for listing in the National Register of Historic Places and any applicable criteria considerations from the National Park Service.

(1) National Register of Historic Places criteria. The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials,

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workmanship, feeling, and association and one or more of subparagraphs (A) - (D) of this paragraph:

(A) Properties that are associated with events that have made a significant contribution to the broad patterns of our history; or

(B) that are associated with the lives of persons significant in our past; or

(C) that embody distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

(D) that have yielded, or may be likely to yield, information important in prehistory or history.

(2) Criteria considerations. Ordinarily cemeteries, birthplaces, or graves of historical figures, properties owned by religious institutions or used for religious purposes, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past 50 years shall not be considered eligible for the National Register. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following categories:

(A) A religious property deriving primary significance from architectural or artistic distinction or historical importance; or

(B) A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with a historic person or event; or

(C) A birthplace or grave of a historical figure of outstanding importance if there is no appropriate site or building directly associated with his or her productive life; or

(D) A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or

(E) A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and when no other building or structure with the same association has survived; or

(F) A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or

(G) A property achieving significance within the past 50 years if it is of exceptional importance.

(3) Issuance of a preliminary determination of significance does not bind the Commission to the designation of an individual historic structure or district. Applicants proceed with rehabilitation projects at their own risk. If a structure is ultimately not listed in the National

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Register of Historic Places, designated as a Recorded Texas Historic Landmark, or certified as a contributing element to a local district pursuant to 36 CFR §67.9, the preliminary determination does not become final, and the owner will not be eligible for the credit. The Commission shall not issue a certificate of eligibility until or unless the designation is final.

(f) Determination of contributing structures in existing historic districts. If a property is located in a district listed in the National Register of Historic Places or in a certified local district, an Applicant or an Owner of the property shall request that the Commission determine whether the property is of historic significance contributing to the district by submitting Part A of the application. The Commission evaluates properties located within historic districts listed in the National Register of Historic Places or certified local districts to determine whether they contribute to the historic significance of the district by applying the following standards:

(1) A property contributing to the historic significance of a district is one which by location, design, setting, materials, workmanship, feeling, and association adds to the district's sense of time and place and historical development.

(2) A property does not contribute to the historic significance of a district if it does not add to the district's sense of time and place and historical development, or if its location, design, setting, materials, workmanship, feeling, and association have been so altered or have so deteriorated that the overall integrity of the building has been irretrievably lost.

(3) Generally, buildings that have been built within the past 50 years shall not be considered to contribute to the significance of a district unless a strong justification concerning their historical or architectural merit is given or the historical attributes of the district are considered to be less than 50 years old at the date of application.

(4) Certification of significance will be made on the basis of the appearance and condition of the property before beginning the rehabilitation work.

(5) If a nonhistoric surface material obscures a building's façade, it may be necessary for the owner to remove a portion of the surface material so that a determination of significance can be made. After the material has been removed, if the obscured façade has retained substantial historic integrity and the property otherwise contributes to the significance of the historic district, it will be considered eligible to be a certified historic structure.

(g) Subsequent Designation. A building must be a certified historic structure prior to the issuance of the certificate of eligibility by the Commission as required by [§172.105 \[171.904\]](#) (b)(1)(A) of the Texas Tax Code. If a property is not automatically qualified as a certified historic structure, an owner of a property shall request that the Commission determine whether the property is of historic significance by submitting Part A of the application in accordance with subsections (e) and (f) of this section. Upon listing in the National Register of Historic Places, designation as a Recorded Texas Historic Landmark, or certification as a contributing element to a local district pursuant to 36 CFR §67.9, Commission staff overseeing the National Register program and the Official Texas Historical Marker program (as applicable), shall prepare a notification, to be filed with the tax credit application, indicating that the designation process required by Part A has been fulfilled.

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(h) Multiple buildings. If a property owned by one entity contains more than one building and the Commission determines that the buildings have been functionally related historically, per §13.1(17) of this title (relating to Definitions), to serve an overall purpose (such as a residence and a carriage house), then the functionally related buildings will be treated as a single certified historic structure, regardless of whether one of the buildings is separately listed in the National Register of Historic Places or as a Recorded Texas Historic Landmark or is located within a historic district. Buildings owned by the same applicant that were not functionally related historically must be submitted as individual buildings on separate applications.

(i) Portions of buildings. Portions of buildings, such as single condominium apartment units, are not independently eligible for certification as an individual space without assessment of any work undertaken elsewhere in the building within the last 24 months, as described in §13.6(f) of this title (relating to Application Review Process). This rule applies even when a building has multiple owners. A full description of all work at the building must be provided with the application.

(j) Relocation of historic buildings. Relocation of a historic building from its original site may disqualify the building from eligibility or result in removal of designation as a certified historic structure. Applications involving buildings that have been moved or are to be moved will be evaluated on a case-by-case basis under the applicable criteria for designation as provided in this section. For a building listed in the National Register of Historic Places, the applicant will be responsible for updating the National Register of Historic Places nomination for the property or district, or the relocated building will not be considered a certified historic structure for the purpose of this credit. For a building designated as a Recorded Texas Historic Landmark, the applicant will be responsible for notifying the Commission and otherwise complying with the requirements of §21.11 of this title (relating to Review of Work on Recorded Texas Historic Landmarks) prior to undertaking any relocation.