TDHCA Governing Board Meeting Transcript from October 10, 2024

10:00 a.m. Central Time

Dewitt C. Greer State Highway Building

Williamson Board Room

125 E. 11th Street, Austin, TX 78701

Leo Vasquez (00:01:06):

Good morning. I'd like to call to order of the meeting of the Governing Board of the Texas Department of Housing and Community Affairs. It is 10:00 AM on October 10th, 2024. We will start out with the roll call today. Mr. Marchant.

Kenny Marchant (00:01:21):

I am here.

Leo Vasquez (00:01:22):

Ms. Farias?

Anna Farias (00:01:22):

Here.

Leo Vasquez (00:01:22):

Mr. Thomas?

Ajay Thomas (00:01:25):

Here.

Leo Vasquez (00:01:25):

Mr. Harper?

Holland Harper (00:01:26):

Here.

Leo Vasquez (00:01:26):

Ms. Conroy

Cindy Conroy (00:01:28):

Here.

Leo Vasquez (00:01:29):

Okay, and we're all here so we have a quorum. We will start out as we usually do with Bobby leading us in the pledges.

Bobby Wilkinson (00:01:42):

I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all. Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

Leo Vasquez (00:01:56):

I'd say play ball, but we're not playing ball anymore this year. We have a relatively full agenda today, so I ask everyone to try to keep it fast, keep it short, and we'll make it through. We are going to have an executive session for just a short executive session for a couple minutes, but we will start out with the Consent Agenda. It's my understanding that we have item two is pulled from the consent, is that correct? Yes. So item two is already pulled from the consent agenda. Are there any other items that a board member or member of the public wants us to remove from consent? Seeing none. I'll call for a motion on the Consent Agenda with the exception of item number two.

Anna Farias (00:03:11):

Mr. Chairman, I move the board approve staff recommendations regarding items one, withdrawn two and four through seven as described and presented in the board action request on this matter.

Leo Vasquez (00:03:30):

There's three through seven

Anna Farias (00:03:33):

And three has also been pulled?

Leo Vasquez (00:03:34):

No, no, no, that's concluded.

Anna Farias (00:03:36):

1, 3, 4, 5, 6, 7 for approval. Two has been withdrawn. I forgot how to count.

Leo Vasquez (00:03:43):

Motion made by Ms. Farias. Is there a second?

Holland Harper (00:03:45):

Second.

Leo Vasquez (00:03:48):

Seconded by Mr. Harper. All those in favor say aye.

Board Members (00:03:51):

Aye.

Leo Vasquez (00:03:52):

Any opposed? Hearing none. Motion carries.

Now that we have everyone seated properly, where's my text? I got it highlighted here. Okay. The Governing Board of the Texas Department of Housing and Community Affairs will go into a closed or executive session at this time pursuant to Texas Government Code Section 551.071 to seek and receive the legal advice of its attorney or to discuss pending or contemplated litigation. The closed session will be held in the conference room at the adjoining here in the back. The date is still October 10th, 2024, and the time is 10:03. We'll be right back.

(00:22:18):

Thank you. Okay. The board is reconvened in open session at 10:21 AM. During the executive session, the Board did not adopt any policy, position resolution, rule regulation, or take any formal action or vote on any item. We are now back to the regular schedule; we are at Executive Director report. Correct. Mr. Wilkinson?

Bobby Wilkinson (00:22:44):

Alright, thank you Chairman. As a reminder, from the American Rescue Plan we got a special allocation of HOME dollars that can be used for capital construction for non-congregate shelter and some other things that we don't often get to do. We have some news from the HOME-ARP program. Our HOME-ARP manager, Tiara Hardaway, is leaving TDHCA on October 18th. She's going to HUD. She's done a great job for us and is moving on to work in HUD's Choice Neighborhoods Program. Tiara, want to give a wave? Thank you so much. Fortunately Naomi Cantu has built up a good roster in the HOME-ARP area and Peg McCoy will step up and take on the manager position. Also, you may remember Burnet Place, which was the first award for HOME-ARP back in January 2023, we're told they had begun moving tenants into their units.

(00:23:45):

This is a supportive housing deal in which HOME-ARP has 31 units and the development was part of a combined effort with our National Housing Trust Fund dollars. Burnet Place opening is the first of several pending openings and shows how far HOME-ARP has come. For the Texas HAF, the Homeowner's Assistance Fund program, it's been a few months since we've talked about HAF. As of Tuesday, HAF has provided assistance to 58,514 unique households with average assistance per household totaling $12,618. To date, HAF is paid out a total of $739.3 million in assistance and all funds have been committed. The program is in phase three making final payments to approved households. We took down the HAF website earlier this week and folks are now being redirected to TDHCA general website for information. For the Multifamily Direct Loan program, MFDL. MFDL was successful in committing the Department's 2022 NHTF grant of $47 million to multifamily developments throughout the state.

(00:24:53):

The largest allocation of NHTF funds TDHCA has received to date. Great accomplishment by our staff and the department, but even more so for the Texas communities receiving this funding that provides deep affordability for decades to come. We get 30% AMI units for our HTF loans. This couldn't have happened without the tireless effort of our Direct Loan staff, the multifamily finance division and TDHCA at large. I also want to acknowledge the developers out there who are using these important funds in their deals, they get good interest rates, so it's a win-win, right? Great job everyone.

(00:25:28):

Housing Stability Services. This was a subset of rent relief that we used to fund several nonprofit initiatives and homeless initiatives, et cetera. Continuing the good news on this front for HSS, they just completed an MOU with the Texas Veterans Commission to provide three years of support for staffing in TVC's homeless veterans program. With approximately $567,000 in funds, TVC was able to provide outreach, education, and housing navigation for more than 3,500 veteran families in Texas experiencing or at risk of homelessness. The activities supported by this MOU between the department and TVC were so successful that TVC leadership was able to secure permanent funding and retain two staff members dedicated to serving the homeless veteran population. So we want to say good job. Shout out to Cate Tracz and her team. She's not here, but she's watching, I'm sure.

That's the end of my prepared remarks and I'm happy to answer any questions that members might have.

Leo Vasquez (00:26:38):

Great, thank you. Any board members have questions for Mr. Wilkinson? Hearing none, thank you for the report.

Moving on to item nine of the agenda, Report regarding a Request for Proposal issued by the Texas Department of Housing and Community Affairs for Servicer Oversight Provider and selection thereof, Mr. Fletcher.

Scott Fletcher (00:26:58):

Good morning. Scott Fletcher, Director of Bond Finance for TDHCA. The department issued an RFP in April for firms interested in serving as servicer oversight provider for the department. The RFP had a submission deadline on May 9th, 2024. Three proposals were received. A review team from the department's staff evaluated responses and selected CohnReznick to serve as servicer oversight provider to the department. Servicer oversight activities will include a review of historic performance and servicing of the department loans by our servicers, including compliance with HUD and HFA guidelines, compliance with internal policies and procedures, adherence with industry best practices related to timely loan processing, loss mitigation, delinquency management, foreclosures, loan modifications, and second lien recovery. The department has an obligation to ensure TDHCA-originated loans are serviced according to HUD and HFA guidelines. Additionally, the department retains some risk on our current servicing portfolio and enhanced oversight is prudent, audit and review of servicer activities is an industry best practice. This will also be an ongoing relationship in terms of laying out our annual audit process of our servicers. The term of the award is one year with the ability to renew and extend for one-year renewals for a maximum of two consecutive years. That concludes my report.

Leo Vasquez (00:28:38):

Okay, great. So, this is an added, more intense oversight that we're going to?

Scott Fletcher (00:28:43):

Correct.

Leo Vasquez (00:28:45):

We've been receiving reports more than actually actively oversight.

Scott Fletcher (00:28:49):

Correct. We get reports on a monthly basis from our servicer on both first lien, second lien loans, loss mitigation activities, delinquency reports, et cetera. There's really several pieces related to this. With our servicing portfolio, total servicing portfolio, just over $8 billion approaching $9 billion. We really felt like we needed to layer in some additional resources in terms of ongoing oversight, in terms of contract and agreements, in terms of what we have in those agreements to protect the department, and really just part of industry best practices of auditing the activities of our servicer. And so these are experts that do this for many firms and their expertise is already proving valuable in terms of the conversations that we've been having.

Leo Vasquez (00:29:48):

Okay, great. Any board members have questions on this report item? Hearing none. Thank you for that report.

Moving on to item 10 of the agenda, presentation from nonprofit and community stakeholders on matters concerning housing policy. Mr. Campbell, tell us what we're about to see.

Cody Campbell (00:30:13):

Sure thing. Good morning. My name is Cody Campbell and I'm the Director of Multifamily Programs for the department. The next item concerns a presentation from nonprofit and community stakeholders on matters concerning housing policy. Staff recommends that the board entertain public comment on this item and once it does so, I will turn things over to our presenters.

Leo Vasquez (00:30:34):

Okay, and this also reminds me, if you're going to be speaking on the item coming up on the agenda, please come forward to the first couple of rows so I'm more aware that y'all are going to be there. This one, we don’t, this is not an Eccles rule. This is actually a posted. Do we?

Bobby Wilkinson (00:30:53):

Yes, Still need a motion.

Leo Vasquez (00:30:54):

Still motion for public comments?

Bobby Wilkinson (00:30:56):

Yeah.

Leo Vasquez (00:30:57):

Would anyone care to make a motion for public comment?

Kenny Marchant (00:31:00):

Motion we accept public comment on all items.

Holland Harper (00:31:02):

Second.

Leo Vasquez (00:31:03):

Okay. Motion made by Mr. Marchant, seconded by Mr. Harper for receiving public comment today. All in favor say aye.

Board Members (00:31:09):

Aye.

Leo Vasquez (00:31:10):

Any opposed?

(00:31:10):

Hearing none. Motion carries. Again, please try to keep this as concise as possible. We have materials here in the board book, but we'd love to hear y'all's input, each individual still identify your name and your organization and be sure to sign in.

Tanya Lavelle (00:31:29):

Sure. Good morning. My name is Tanya Lavelle. I'm the housing policy specialist with Disability Rights Texas and I am here today as part of a coalition of nonprofit and community partner organizations to discuss our perspectives on the current and future landscape of the low-income housing tax credit program. I really appreciate everyone allowing us to give this presentation today.

Our objective is to educate everyone about perspectives on the LIHTC program through the lens of the organizations and people that we as nonprofit and community partners represent. We'll do so by providing information about the current housing landscape, exploring the goals of the LIHTC program, and making recommendations on how to align programmatic outcomes with those goals. We also want to illustrate that there are other stakeholders in the LIHTC program in addition to the industry. Other primary stakeholders are nonprofit partners and community organizations like us that represent and advance the interest of low-income tenants, but as well, self-advocates who actually live within the four walls of the LIHTC units.

(00:32:33):

The tax credit program. I'm going on to slide three if you guys want to follow. The tax credit program is an incredible to produce low-income housing for low-income tenants. It benefits low-income Texans by creating housing stock and gives developers significant tax benefits for building more units. However, since the program is a public subsidy and it is over-prescribed, we have the opportunity and the obligation to use the tool to produce the best outcomes for clients which are low-income tenants. The LIHTC program has to be used not to simply achieve the most units possible, but to achieve the most units possible that have a positive impact for residents. This means working to strike a balance between the number of units and the things that make lite unique, including the deepest possible affordability, access to high opportunity areas and other amenities that are appropriate and useful to residents.

(00:33:25):

Whenever changes to the program are considered, deliberation should focus on the question: “Will this have a positive impact on the clients in this program, which are the residents?” Consensus solutions are often touted when creating change in this program, but when changes are proposed, whether in the QAP or any other rule pertaining to the program, solutions can only be considered consensus if they're reached by not just the industry, but all interested stakeholders. It is imperative that residents as well as the organizations that are committed to improving their housing outcomes are featured prominently in any discussions and given the same deference as those who build these developments. I'm going to go to slide four. In August, the state comptroller's office published a report entitled “The Housing Affordability Challenge,” the crux of which is that Texas has a dearth of housing that is available and affordable to those who need it.

(00:34:15):

The effects of this housing shortage are particularly pronounced for extremely low-income Texans, a population that the LIHTC program is meant to serve. Per the Texas A&M Real Estate Research Center, median home prices in Texas increased by nearly

40% between 2019 and 2023, which created historic housing affordability concerns, especially for Texas's extremely low-income residents. These are households with incomes at or below 30% of the area median income. This population includes people, for example, with disabilities receiving government assistance as well as people who work low wage jobs. The comptroller's report identifies cost burden as one of the primary affordability concerns facing the state. A household is considered to be cost burden if they spend more than 30% of their income on housing and severely cost burdened if they spend more than 50% of their income on housing. When a person spends more than 30% of their income on housing, they do not have enough income leftover for the other things that they need, including things like food, health insurance, or childcare.

(00:35:19):

The A&M Real Estate Research Center cites that as of 2022, 39% of Texas households we're cost burdened and it's particularly acute for extremely low-income households, 88% of households with incomes at or below $20,000 a year are considered cost burdened compared to only 8% of those who make $75,000 or more a year. I'm going to turn to slide five. You can see that the data from the National Low Income Housing Coalition Gap Report illustrating that the state's housing needs are most acute for its lowest income households. The graph on the left depicts cost burden as it relates to income group. Per the graph, 91% of extremely low-income Texans making zero to 30% area median income are cost burdened. 79% of the same group is severely cost burdened. At the other end, only 26% of middle-income renters making 81 to 100% of area median income are cost burdened and only 2% are considered to be severely cost burdened.

(00:36:21):

The less income you have, the more likely it is that you will have to spend enough of your income on housing that you won't have enough left over to pay for everything else you need. It's also worth noting that higher income households have the option to rent units below what they can afford, something that extremely low-income households cannot do. This is a perfect example of why deep affordability in the LIHTC program is critically important and one of the most important components of the program. The graph on the right side illustrates the number of affordable and available homes per 100 renter households who need them. At the top, you can see that there are more than enough units available and affordable to households at or below a hundred percent AMI and very nearly enough for households at or below 80%, but there are only 45 units affordable and available per a hundred households making at or below 50% and a very low 25 per 100 who need them available at extremely low-income households.

(00:37:24):

That puts Texas at 46 out of 51 in terms of availability for these units. The comptroller's report also highlights the current shortage of rental units as an affordability concern stating, “shrinking supply of low-income units as the greatest challenge to renters in Texas.” There is a shortage of well over 670,000 units affordable and available to the extremely low-income households who need them.

On slide six, you can see a graph from the Harvard Joint Center for Housing Studies illustrating the number of rental units available in Texas by price between 2012 and 2022. There was a tremendous change in the types of rental units being built in the state. On the left, you can see that there was a market decrease in the number of units built priced under $600 a month between 2022 and 2012. Similarly, there was a decrease in the number of units built priced between $600 and $799 a month from 2022 to 2012 comparatively. However, the opposite is true for higher rent units. There were dramatic increases in the number of units built priced between $1,001 and $1,399 a month, as well as units priced between $1,400 and $1,999 a month. Put into perspective, in 2022, fewer than 452,000 units were built, priced under $600 a month. In that same year, over 1 million units were built, priced at $1,400 to $1,999 a month. I'm going to go ahead and kick it over to Matt Hull.

Leo Vasquez (00:38:58):

Great, thank you.

Matt Hull (00:39:02):

Good morning. I'm Matt Hull, the Texas Association of Community Development Corporations. We represent mostly nonprofit, affordable housing developers in the state of Texas and community development financial institutions making investments in affordable housing. We have about 130 members across the state and many of our members have been participating in the LIHTC program from the early days of the program. Here to talk just a little bit about the history of the LIHTC program and how we got to this discussion today.

As you're aware I'm sure, LIHTC was passed in 1986 as part of the Tax Reform Act, really as a reaction to some policies that had been passed in the early 80s that highly incentivized individuals to invest in affordable housing, take the passive loss deductions on those had unintended consequences of not reinvesting in those properties. So at that time you had individual investors reaping gains but letting the housing deteriorate.

(00:39:56):

In 86, Congress wanted to address that and LIHTC was created. Interestingly enough, it was really promoted by three nonprofit national organizations: Enterprise Foundation, now Enterprise Community Partners, LISC, and the National Low-Income Housing Coalition. It was really seen as a way to get institutional investors to invest in affordable housing and remove individuals from that.

Keep in mind, this was the 80s, this is during the Reagan administration. There were massive cuts in housing budgets. Public housing was being cut. We saw the rise of large public housing properties that were going into deteriorated conditions. LIHTC was seen as a way to get more private equity into deals and to get public funding away from affordable housing. So since it was included in 86, it was made permanent in 93. It has become by far the most significant affordable housing program in the country, developing tens of thousands of units a year.

(00:40:56):

Shelter Force Magazine late last year ran a history of the LIHTC program and basically came to the conclusion that there's four things that we all know about it. One, it's extremely complicated. Two, it's the only housing program with bipartisan support that doesn't require an annual appropriation since it's been made permanent. It benefits large financial institution to the tune of billions of dollars every year through not only the tax credits, the depreciation that they can take, but also the CRA credit they get for it. And at the end of the day, it's really hard to imagine the affordable housing landscape without the LIHTC program in it and the units that it creates. But because the program is so lucrative to developers, both nonprofit and for-profit, there's always been a pendulum swing of public policy that has shifted over time between getting the most units on the ground as cheaply as possible and creating the most public benefit like Tanya alluded to.

(00:41:49):

And so TACDC members have typically pushed the envelope on public benefit, lower income targeting, better site selection, but there's always been this push-pull between developers and TDHCA staff over those policy issues, site selection, income targeting, amenities, location to transportation, all of those typical things. And so just because we want to acknowledge that our members are struggling to make deals pencil a lot right now, labor's high materials are high, cost of land is high, subsidies are not at their highest right now, and at the same time you've got some operating cost volatility, mainly insurance, big concern, taxes being a big concern as well. However, just because deals are more difficult to pencil out now doesn't mean that we need to throw away all of those good public benefit considerations that have been put in place in the past. And to talk more about that, the speakers behind me will be addressing those issues. So at this time, I wanted to bring up Ben Martin with Texas Housers. Thank you.

Leo Vasquez (00:42:54):

Matt, did you sign in?

Matt Hull (00:42:57):

Did I?

Leo Vasquez (00:42:57):

I don't think you did.

Matt Hull (00:42:59):

Yeah, I did not, sir.

Ben Martin (00:43:05):

Hello, good morning, Chair, board. With the board's permission, I'm going to actually speak right now on behalf of Ann Lott from Inclusive Communities Project who, due to a traffic accident and a closed freeway beyond her control, missed her flight down here to speak this morning.

(00:43:23):

So, I'm going to speak on behalf of Ann and then on behalf of Texas Housers in a few minutes. So, from Ann Lott of Inclusive Communities Project in Dallas, Texas, thank you for the opportunity to address you on matters of housing policy from the nonprofit and community stakeholder perspective. My remarks this morning will focus on the orientation and goals of the LIHTC program in meeting the needs of its most important stakeholders, the roughly 321,000 or so households living in LIHTC units across the state. We support your mission of providing high quality affordable housing in a way that allows Texas communities to thrive. We understand the need to increase the production of LIHTC units to address affordable housing shortages. We also understand the economic challenges that Matt just spoke to that developers face in today's environment. I want to speak to the question of feasibility of developing affordable housing and high opportunity areas as that term is defined in earlier QAPs.

(00:44:22):

Well-resourced communities with low poverty, solid public schools, and low crime. We are concerned that the alternative will be a move to concentrate LIHTC in high poverty neighborhoods with cheap land like was done in the past. If history is our best teacher, then our history tells us that concentrating LIHTC units in high poverty areas does not foster communities that thrive. On the contrary, it fosters a culture of poverty that lends itself to poor physical and mental health, educational deficiencies, and generational poverty. Quality affordable housing is an important factor in addressing housing instability. But the location of the housing is equally important for the people that live there. The research that suggests affordable housing in low poverty communities plays a positive role in determining our health, our economic opportunity, and our educational outcomes. There is also compelling research that suggests that location is a critical factor in breaking intergenerational poverty.

(00:45:20):

For example, the research of Raj Chetty, an economics professor at Harvard University. In the spirit of time, I'm not going to go into the details of Chetty's research, which hopefully many of you are familiar with, but in conclusion, especially for children moving to high opportunity areas, they're more likely to graduate high school and attend college. They earn 30% more than low-income children growing up in high poverty neighborhoods, and their lifetime earning potential is expected to increase by approximately $300,000. TDHCA plays a critical role in not only providing quality affordable housing, but also improving the life outcomes of thousands of low-income children served by this program. For the first 15 years of the program, over 70% of 9% awards went to developers building in high poverty tracks, but there was an upward trend of awards in low poverty census tracks. Beginning in 2008, we realized that ICP litigation was part of the genesis for this upward trend, but the trend towards low poverty communities continued after the terms of the remedial order were satisfied.

(00:46:22):

As we can see with the five-year period between 2016 and 2020, referred to in the slides the trend of basic, I'm sorry, I kind of missed Ann's point here. The trend of more a higher share of the 9% properties going into higher opportunity, higher income communities continued. That also trends towards communities with a higher share of White, non-Hispanic residents and lower share of Black and Hispanic residents, Hispanic residents, more modestly in that spirit of deconcentrating poverty and racial segregation. So TDHCA has made real strides in deconcentrating its affordable housing stock. We understand that not all of the housing will go into low poverty areas, but because the lion's share of the existing portfolio is still in high poverty areas with Dallas leading the pack, we emphasize the need to administer the program in a way that does not perpetuate racial segregation by incentivizing development in low poverty, by incentivizing development in low poverty census tracks. In doing so, you will provide low-income households with access to opportunity. And with that, I will turn it over to Eric Samuels.

Tanya Lavelle (00:47:52):

Thanks. You're here. Okay. Thank you gracious. Okay, Eric's here.

Eric Samuels (00:48:10):

All right. I am sorry I had to step out. We had a family emergency. I had to make sure everything was okay and everything's okay. So that's good. I'm Eric Samuels. I'm the president and CEO of Texas Homeless Network. We work with all 11 homeless response systems in the state, and we happen to be the lead agency for one of those systems that covers 215 counties.

So, what I'm talking about, you can see on slides 15 through 19, my focus is on people with disabilities, older Texans, and of course people experiencing homelessness. A disproportionate number of these Texans are extremely low income, many relying on low wage or jobs or government benefits. Many need special accommodations and depending greatly on the location of their housing to fulfill the health and supportive service needs critical to their day-to-day lives and overall wellbeing.

(00:49:04):

Looking at the best data we have on people who experienced homelessness over the last two years, a group by the way, that includes a high rate of people with disabilities and increasingly a higher percentage of older adults year after year. We can see that our homeless response system providers have helped over 27,000 people escape homelessness in this time through 2022 and 2023. Most because of deeply affordable and supportive housing. Much has been created through the housing tax credit program, and this is great news. And you would think with that and the fact that we're averaging around 71,000 people a year experiencing homelessness throughout the state, we would start to make big strides in reducing homelessness. But unfortunately, during that same time period, over 94,000 people fell into homelessness for the first time. And when thinking about these data, I need to point out we don't have data from every community, so these numbers in reality are much higher, so we just can't keep up on either end.

(00:50:11):

We don't have enough affordable and supportive housing to prevent homelessness on the front end, and we definitely don't have enough to help those on the other end of this journey so they can escape homelessness. So we ask you to consider the critical role of the housing tax credit program and the critical role it plays in providing stability for Texans with disabilities, older Texans, and those experiencing homelessness. Because in the end, housing tax credit units are one of our only housing resources that can meet the critical needs of these special populations. And one of the only ways that we can ensure these Texans are able to enjoy the stability that most of us in this room right now take for granted every night. Thank you. And Steven's coming up to speak.

Steven Fairfield (00:51:05):

Thank you, board, for this opportunity. I'm Steven Fairfield with Covenant Community Capital in Houston's Fifth Ward, where I've also been a 22-year resident. Our organization equips families to secure economic mobility and intergenerational resilience by acquiring affordable homes, accessing quality education, managing risk, and building savings for life. We've helped a thousand families earning an average of $29,000 buy a home of their choice, and we've also developed amenity filled rental communities for homeless women and children, vulnerable seniors, low-income, working families and youth exiting foster care.

I'm here to seek the best and highest outcomes for the families and seniors that these public resources are meant to serve. I recognize that market conditions change. When we built our first 9% community 30 years ago, 312, two-, three- and four-bedroom units on 33 suburban acres across from an elementary and new middle school, mortgage rates then were 2% higher and credit prices were 45 cents.

(00:52:23):

There's been a lot of good research since then by Raj Chetty as mentioned and others on the specific factors that help children succeed. There's decades of experience among local nonprofit and for-profit developers on how to build and preserve Texas affordable properties. Advocates are attuned to the needs of their constituents and institutional insights have accrued here in the department as it has stewarded these resources over many decades. And I know that meaningful services are not limited to those in the QAP, as the seniors who ride our free lift equip buses will tell you. I don't want to champion costs that don't produce valuable outcomes when well implemented. And as a development community member, I know that predictability is important as is margin to ensure against the unknown. There's always room for improvement and it makes sense to hear from all sides to craft sensible policy. So let's work together to deliver the best bang for the buck for the department's clients, Texans with modest incomes, given the opportunities and resources at hand. Thank you.

Ben Martin (00:53:52):

Ben Martin, again, Texas Housers speaking as myself last speaker. Thank you so much for your time this morning. Texas Housers has worked in the state of Texas for over 30 years alongside low-income Texans to ensure that they have access to housing that is affordable, that is stable, that is decent, and that is fair with choice.

Tanya began by talking about how we need to work together to ensure that we are oriented directly at the goal of providing the units that are the best for the beneficiaries of this program, tenants that this program serves. And that's going to mean as we've talked about today, a balance of the highest number of units that we can achieve that provide the deepest affordability that are in good quality locations that are decent quality units and provide appropriate amenities to serve the types of populations that Eric spoke about.

(00:54:54):

There is also an opportunity here for a renewed commitment from the agency to an engagement process that includes room for meaningful participation from all relevant stakeholders. The state low-income housing plan states that TDHCA believes that consultation with community advocates funding recipients, potential applicants for funding and subject matter experts is an essential prerequisite to the development of effective policies, programs, and rules. Industry perspectives are critical to making the tax credit program a success, and so are the perspectives of clients and beneficiaries of the program and those that advocate on behalf of them and alongside them. We need different perspectives to ensure that this public program is producing the highest and best results in the use of public funds. Engagement for non-industry stakeholders is currently limited in several ways. Many struggle like Ann Lott of Inclusive Communities project this morning to travel to Austin to regularly participate in board meetings and round tables.

(00:56:01):

Some social service and advocacy organizations lack their industry counterparts, line level expertise on the QAP and yet nevertheless still have valuable ideas and expertise to bring to the table. The beneficiaries of the program, low-income people, face additional limitations, for example, on the time that they can dedicate to participating in this process. We do perceive a gap between the type of commitment that many organizations and individuals can provide and the type of comments that the agency is prepared to absorb and act on. But luckily, there are many resources to help bridge that gap. For example, the International Association for Public Participation's core values have for years been considered the gold standard for public sector engagement with community stakeholders. These values include the following: public participation seeks out and facilitates the involvement of those potentially affected by or interested in a decision. Public participation seeks input from participants in designing how they participate.

(00:57:07):

Public participation provides participants with the information they need to participate in a meaningful way. For example, TDHCA could take steps like the following, expanding virtual engagement opportunities that have been successful when they've been deployed at lowering the geographic barrier to participation. Planning as an agency for how to meaningfully receive and use comments from participants that want to contribute but lack technical or industry expertise. Survey existing tenants more regularly about their needs and concerns. Develop materials and facilitation approaches that make room for non-expert participation, and reach out proactively and directly to groups who are underrepresented in the engagement process. We really do appreciate the opportunity to speak to you all this morning. We in the advocacy community are committed to making this program work as well as it possibly can for low-income communities in the communities we serve. Thank you so much.

Leo Vasquez (00:58:07):

Great. Thanks and appreciate all the comments and input from the speakers here this morning. Obviously, we need continuous input from everyone. I need you all to be talking to the industry folks. I mean, have you all? We need to have you and TAAHP together. I'll use TAAHP because it may be the rural housing groups and stuff like that because they are the ones that are building what you all want them to build. So let's just make sure that kind of lines of communication go on. Obviously, please keep talking with our staff here and let's find ways to get other private sector philanthropic monies and stuff like that. Those can really make the difference, I think, between bridging the cost structure that the neediest part of the community needs and the supportive housing and all those things, but that the developers can't pencil out just because just the numbers just don't work. If we can figure out a way to get that extra philanthropic layer in there as an idea and then let's keep working together with Washington and as they keep doing all the redeveloping or revising the tax credit programs and such, again, it's not going to work without all these pieces together.

Ben Martin (00:59:47):

Absolutely. Here, here. And we are enthusiastic about working with industry stakeholders, including TAAHP, to address their needs while also continuing to improve outcomes for the program beneficiaries.

Leo Vasquez (01:00:00):

And if they don't answer your call, tell me and I'll make sure they call you back.

Ben Martin (01:00:03):

Will do.

Leo Vasquez (01:00:04):

Okay. Alright, great. Appreciate it. Thank you. Thanks for coming and making the effort. Tell Ann we missed her. So let's move on. We're now on item 11, is that correct?

(01:00:28):

Okay. Bond Finance. Mr. Fletcher, again, Presentation, discussion, and possible action on Resolution No. 25-001 authorizing request to the Texas Bond Review Board for annual waiver of Single-Family Mortgage Revenue Bond set-aside requirements; authorizing the execution of documents and instruments relating thereto; making certain findings and determinations in connection therewith; and containing other provisions relating to the subject.

Scott Fletcher (01:00:56):

Good Morning, Scott Fletcher, Director of Bond Finance, TDHCA. With this item, staff is seeking authorization to request a waiver from the Bond Review Board of the set-aside requirements of Chapter 2306, Section 142 L, of the Texas Government Code, which requires the department to allocate through set-aside or reservation of funds not less than 40% of bond proceeds for each bond issue for mortgage loans, including subprime mortgage loans to be originated in underserved economic and geographic submarkets in the state. Section 142 M, of Chapter 2306 allows the department to request a waiver from the Bond Review Board if the board determines, if the TDHCA board determines in any year that this requirement is unfeasible or would damage the financial condition of the department. At this time, staff is requesting authority to request a waiver from the Bond Review Board of the set-aside requirements of Chapter 2306, Section 142 L, of the Texas Government Code for single Family Revenue Bonds issued in calendar year 2025.

(01:02:05):

Stifel, the department's financial advisor, has updated the analysis of the feasibility and economic implications of compliance with 2306 Spot 142 L, and prepared the attached report which is presented to the Board for its review and acceptance. Staff will provide this report with its waiver request to the Texas Bond Review Board. As a reminder, Section 142 L, became effective September 1st, 2002. The department has requested and been granted this waiver by the Bond Review Board every year since 2002. There are several reasons why this waiver is necessary, including the fact that TDHCA indentures require MBS eligible loans requirements by the master servicer that borrowers have a minimum 620 FICO score, and the interest rate risk associated with holding back a significant portion of bond proceeds to meet these requirements. Further, the department continues to serve the intended audience low, very low-, and moderate-income home buyers throughout the state and across various economic and geographic sub-markets. Approximately 96 of the department's bond loans are made to borrowers at or below 90% of the area median income, and we do allow for FICO scores as low as 620 with no penalty to the borrower. While the department cannot technically meet the requirements of 2306.142 L, we do as I just outlined, continue to serve those underserved borrowers in the state. That concludes my remarks and I'll welcome any questions.

Leo Vasquez (01:03:44):

Okay. This is part of our legislative cleanup request bill to fix this, so we don't have to ask this every year, this bureaucracy at its worst, but this is included.

Scott Fletcher (01:04:02):

We discussed this last year and I believe Bobby can provide.

Bobby Wilkinson (01:04:07):

Nothing is filed yet, of course. But yes, that's it. It's in the works.

Leo Vasquez (01:04:09):

It's going to be one of our questions. Okay. Any other members have questions on item 11? Good. Okay, in that case, I'll entertain the motion on item 11 of the agenda.

Ajay Thomas (01:04:24):

Mr. Chairman, I move the board grant Resolution No. 25-001 regarding the annual waiver of Single-Family Mortgage Revenue Bond set-aside requirements, all as described, conditioned, and authorized in the board action request resolution and associated documents on this item.

Anna Farias (01:04:40):

Second.

Leo Vasquez (01:04:42):

Thank you. Motion made by Mr. Thomas, seconded by Ms. Farias. All those in favor say aye.

Board Members (01:04:46):

Aye.

Leo Vasquez (01:04:47):

Any opposed? Hearing none. Motion carries.

Scott Fletcher (01:04:49):

Thank you.

Leo Vasquez (01:04:51):

Hang on, you're next.

Item 12, Presentation, discussion, and possible action regarding Resolution No. 25-004 authorizing the issuance, sale, and delivery of TDHCA single family mortgage revenue bonds or residential mortgage revenue bonds, in one or more series and installments; approving the form and substance of related documents; authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this resolution; and containing other provisions relating to the subject. Mr. Fletcher,

Scott Fletcher (01:05:28):

Thank you. Just a little bit of background on this. We began this last year where we sought and were granted a blanket approval for issuance for fiscal year 2024. This is obviously for fiscal year 2025. Wanted to give you a quick background. Rates have fallen off from recent highs, yet still remain near their highest level since 2009. The Fed cut Fed funds rate by 50 basis points at the September meeting. Market expectations are for continued cuts. Overall economic numbers remain strong, which may slow the Fed's pace a little bit. Demand for mortgage loans funded by the Department’s bond issuance has slowed modestly but remains reasonably strong as the rate differential between bond-funded loans and TBA or market rate loans remains fairly wide. The Department issued three times in fiscal year 2024 for a total of $750 million, we actually ended up doing a 60/40 split between tax exempt and taxables.

(01:06:34):

Looking ahead, we envision building a larger mortgage loan pipeline ahead of issuance going forward and issuing more frequently in 2025 in smaller amounts. We also envision issuing more tax-exempt paper to keep our rates as low as we can in a projected falling rate environment. The annual not to exceed issuance approval would provide several benefits for the department. One, is increased flexibility on timing and frequency of issuance to ensure we can both adjust and take advantage of market opportunities and changes in interest rates and changes in mortgage demand. It just gives us the flexibility. Two, it enables the Department to better manage our market risk associated with issuance and funding bond loans. And thirdly, enhance the continuity and availability of bond funded mortgage loans. Moving towards a continuous program. The $1.1 billion request represents the Department's expectation of fiscal year 2025 issuance projected at around $850 million in tax exempt around 150 in fixed rate taxable and around a hundred million in recycling refunding related tax-exempt issuance. The Department will continue to provide the board with pre- and post-issuance reports. Issuance parameters specified in the resolution mirror those that we have done on recent transactions but do include language to include variable rate issuance going forward. The Department recommends approval of this resolution. That concludes my prepared remarks and I welcome any questions.

Leo Vasquez (01:08:16):

Okay. First of all, I want to know, last meeting you told us to expect a 25-point rate cut and was 50.

Scott Fletcher (01:08:25):

I was wrong.

Leo Vasquez (01:08:25):

How can you explain? No, that's good. 50. Why is it still, I was curious, is a $1.1 billion, it's the same amount as the prior year, isn't it expanding or why are we keeping it the same level?

Scott Fletcher (01:08:43):

Yeah, so we ended up, we asked for the $1.1 billion. One of the things that we do with that is make sure we wanted, make sure we have authorization to do at least what we expect, maybe a little bit more than we expect. We ended up only issuing $750 million last year, so we were well under our expectations and that had to do with a decrease in demand. That's happened since July. Going forward, I think as we make adjustments in the program, as we make adjustments in give ourselves some more flexibility in how we do our financings and the frequency of our financings, I think we'll be able to be at a low enough rate to keep our demand up. So I think we're probably going to be looking at around a billion for 2025. That a hundred million is just a little bit of cushion just in case we see higher demand than expected.

Leo Vasquez (01:09:31):

Okay. Now next question. So you have introduced the authorization of variable rate bonds?

Scott Fletcher (01:09:40):

Correct.

Leo Vasquez (01:09:41):

I assume that everything variable is going to be swapped to effectively fixed, I mean that,

Scott Fletcher (01:09:48):

Absolutely. We don't care to take on variable rate debt. What we are seeing in the market though is that you can issue variable rate debt, swap that out to a fixed rate, and actually achieve savings versus what you could do with a straight fixed rate tax exempt deal. And so we will be looking at that. We didn't ask for that last year really because we were kind of in cleanup mode on a couple older swaps. Administratively, it's very challenging, but I'm also looking at this and saying I want every tool in the toolbox. We are bringing this back in. Our swap policy that we have in place is adequate to manage the risk that we would have related to managing the swap if we did variable rate issuance. And to the degree that that can help us provide better rates to borrowers, we want to be able to utilize that tool.

Leo Vasquez (01:10:44):

Okay. So you're assuring us that we're not going to have uncovered variable rate issuances.

Scott Fletcher (01:10:50):

I'm assuring you that I will not allow that to happen. We will swap everything into fixed rate and the only rate we're going to do a variable rate trade is if it generates savings over just doing a straight fixed rate deal.

Leo Vasquez (01:11:02):

Okay. So that's not going to happen. We don't have to fire you or Stifel.

Scott Fletcher (01:11:06):

I am on the record.

Leo Vasquez (01:11:09):

Okay. Alright. Everyone heard that? Right? Okay. Mr. Thomas,

Ajay Thomas (01:11:11):

Yes, sir. Mr. Chairman, just a quick question. So as the strategy shifts to doing more frequent issuances? How are you thinking through or accounting for the ancillary costs like administrative fees, professional fees such that go with more deals?

Scott Fletcher (01:11:30):

Yeah, the fixed dollars on deals are the minimal part, right? The fixed costs associated with issuance. Most of it's based on percentage of number of bonds. So even though we would be coming to market more frequently, we probably, we'd be increasing our fixed costs, but those are not the biggest part of the equation as you know. So we would probably have a little bit more issuance expense, but it's related to just coming to market and having the fees. Everything from underwriting fees to FA fees, to rating agency fees are all driven by the amount of bonds that we're issuing on any given deal. So, we don't think it's going to materially change the game and increase our expenses that dramatically.

Ajay Thomas (01:12:17):

Great. And I would encourage, I think the chairman's talked about this before, but to the extent that we're doing more frequent transactions and they're all very similar transactions, to sort of send a message early in the process that we don't want to reinvent the wheel every time. We should benefit from document templates and things like that to get fees down as far as we can.

Scott Fletcher (01:12:38):

Agreed.

Leo Vasquez (01:12:41):

Any other questions for Mr. Fletcher? If not, I'll entertain a motion on item 12 of the agenda.

Ajay Thomas (01:12:51):

Mr. Chairman, I move the board grant Resolution No.25-004 regarding the issuance sale and delivery of TDHCA Single Family Mortgage Revenue Bonds, all as described, conditioned, and authorized in the board action request resolution and associated documents on this item.

Leo Vasquez (01:13:08):

Motion made by Mr. Thomas, seconded by Mr. Harper. All those in favor say aye.

Board Members (01:13:12):

Aye.

Leo Vasquez (01:13:12):

Any opposed? Hearing none. Motion carries.

Scott Fletcher (01:13:15):

Thank you so much.

Leo Vasquez (01:13:15):

Thanks Scott. Moving on to item 13 of the agenda Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.101(b)(1)(A)(vii) of the Qualified Allocation Plan regarding to the percentage of efficiency and/or one-bedroom units for Oak Hill Lofts. Ms. Morales.

Teresa Morales (01:13:40):

Good morning. Teresa Morales, Director of Multifamily Bonds. Item 13 includes a request for a waiver for a property that exceeds the 30% limitation on efficiency and one-bedroom units. Oak Hill Lofts proposes the new construction of 90 units in Austin. Of the 90 units, 50 will be one-bedrooms, which comprises 55.5% of the total unit count. The remaining units include 30 two bedrooms and 10 three bedrooms. Last year the applicant submitted a 4% housing tax credit application for this development. While the unit mix was slightly different, it complied with the QAP. Instead of 90 units the application reflected 82 total units and included 24 efficiency units that represented 29% of the total. The remaining units were two bedrooms. According to the applicant, the original design contemplated offsite modular construction, but due to issues with modular suppliers, the applicant switched course to utilize traditional construction and decided to reconfigure the project.

(01:14:46):

The applicant reconfigured the development from one that was compliant with the QAP to one that was not compliant. They started the process with a different bond issuer and subsequently made a submission to the Bond Review Board last October and participated in the bond lottery where the application has effectively been in line for a year now. Given the oversubscription, the application just recently received a bond reservation, which has a deadline to close of February of 2025. Staff does not believe that the request and circumstances fit within the provision of the waiver rule that this was not within the control of the applicant and recommends that the waiver be denied.

Leo Vasquez (01:15:29):

So, this is asking for 56%,

Teresa Morales (01:15:33):

55 and a half.

Leo Vasquez (01:15:34):

Yes, 55 and a half percent. And originally when it was presented to us it was 29 something?

Teresa Morales (01:15:43):

Correct.

Leo Vasquez (01:15:43):

So, which complied with the original configuration did comply but,

Teresa Morales (01:15:46):

Correct.

Leo Vasquez (01:15:47):

Now this,

Teresa Morales (01:15:47):

That application. It was submitted last year, but it was ultimately withdrawn. So, it didn't move forward.

Leo Vasquez (01:15:56):

Okay. And this is not a adaptive reuse or rehab, it's new construction.

Teresa Morales (01:16:03):

Correct.

Leo Vasquez (01:16:04):

So, it's not like they're limited in how they put together there, making do with what was there?

Teresa Morales (01:16:11):

Correct.

Leo Vasquez (01:16:12):

Okay. I guess there are representatives of the developer that would like to say their piece. Remember, sign in and,

Greg Stoll (01:16:29):

Hi, good morning. My name is Greg Stoll. I'm here representing Broadway Homes and Rose Equities on Oak Hill Lofts. Our team's first LIHTC development here in Texas. This will be a two-phase development of 290 rent-restricted units on an elevated parcel in the middle of the only Imagine Austin Activity Center of West Austin. As local Austinite, my partner and I spun off Broadway homes to bring affordable housing to the communities we've called home. We focused our site search in the part of the city trailing the most in the strategic housing blueprint scorecard. Here in Oak Hill, the 2024 HUD fair market rents are over $800 a unit higher than the 60% rent restricted units. Which is the primary reason that so little affordable housing has been built anywhere in district eight. Halfway through the 10-year evaluation period, district eight still has only completed 2% of their mandated goal.

(01:17:14):

Our original business plan proposed using a new development type offsite modular construction, which would've been the first LIHTC development in Texas to try this. We purchased the site in 2021 and the development plans were inflexible due to the limitations of modular development, but still compatible with the QAP at that time. When the 2023 QAP introduced this new limitation, we reworked the designs with the manufacturer. Although 30% of the units were less than two-bedroom, all 30%

were studios, meaning that no one bedrooms and they were each just above 500 square feet each. This was presented to TDHCA in our compliant 2023 application, but it's clearly less than ideal for our community. Unfortunately, local modular factories are not yet capable of building on the scale and transfer costs have been infeasible to produce these units anywhere out of state. We've needed to transition back to traditional construction, which has been our team's focus for decades.

(01:18:07):

But with traditional construction, we face the same obstacles that have prevented other LIHTC developers from coming into Oak Hill to the same extent as other portions of Austin. We think that we've now found a way to develop here, but the total cost per unit of our 2024 application is 56% higher per unit than our 2023 application. The district eight office has also requested that we include more family units, primarily due to taking advantage of the great West Austin schools. In response, we've added 11% three-bedroom units, which is a total of 38% more bedrooms in last year's compliant application. Since we were notified by staff last week of the recommendation to deny this waiver request, we've been working aggressively with our design teams to try and reconfigure our plans. We've identified a way to change two one-bedroom units per floor to two-bedroom units, which results in a phase one unit mix of 31 bedrooms to 52 bed, and ten, three-bed units. Since we only made this update last week, we still haven't had an opportunity to socialize these changes with our GC and their contractors. But as of today, if the Board does not accept our current waiver request, we respectfully ask that we be able to modify our application to accommodate the updated plans, which would have a total of 33% one-bedrooms. This plan would still be over the current QAP but is in line with the proposed changes of 2025. Thanks in advance and we'll be happy to answer any questions.

Leo Vasquez (01:19:29):

Okay. So you're working on readjusting the plans till to get the 33%. Okay. I mean,

Greg Stoll (01:19:37):

That's correct.

Leo Vasquez (01:19:38):

So, could we table this for now or is there some other timing issue that gets triggered?

Greg Stoll (01:19:46):

Well again, we've only had a week since we were notified.

Leo Vasquez (01:19:48):

That's almost more to, well, yeah, I guess part to you, but part to staff. I mean, because telling you right now it doesn't, the way it's been presented in the board book, there's no way we're approving this.

Greg Stoll (01:20:00):

And we understand that.

Leo Vasquez (01:20:03):

If these revised plans, are they allowed to,

Bobby Wilkinson (01:20:08):

There's no actual revised plan yet to vote on. Right?

Leo Vasquez (01:20:13):

Yeah, that's what I'm saying. So would this be more logical to table for another meeting or do you want the or are there consultants,

Robbye Meyer (01:20:24):

Robbye Meyer, I'm with Arx Advantage. I'm representing the applicant. What I would ask if we could get a “yes,” that would work, then he could move forward with revising the plans and move forward with it. If you're not going to approve the waiver either way, then it's kind of a dead deal. But if you would approve it with the revision, then he can move forward with the plan and move forward with the revision, and we're done. If not, you're not acceptable to that. Then,

Holland Harper (01:20:59):

Ms. Meyer and Mr. Stoll, why is 3% on single family? I mean, you went from 56 to 3% over now is what you're asking for here. I mean, is it really that much economics in 3% on,

Robbye Meyer (01:21:15):

50% To 33?

Holland Harper (01:21:16):

I'm with you. And the standard is 30, so why not 30?

Greg Stoll (01:21:24):

That would just result in the revision of our floor plans. We don't have time. Given our current existing bond reservation. We absolutely have to close in January, and we don't have enough time to basically create a new floor plan that would introduce new units. So our only solution at the time, our temporary solution, was to basically convert some of the, use the existing floor plan, but convert some of the one-bedrooms into two-bedroom units.

Robbye Meyer (01:21:52):

The main thing is the building configuration, not having to change the building.

Holland Harper (01:21:57):

I understand that. Thank you.

Bobby Wilkinson (01:22:00):

And we are going to 35% for 2025, right? Yeah. So that would comply in a few months forward. Yeah, that would work. So I guess you could approve a waiver of up to 34%, right?

Leo Vasquez (01:22:17):

I'm saying no, my left is here telling me no, or he can't right now it wasn't presented.

Beau Eccles (01:22:26):

Well. What you're asking for then is a waiver of a rule for something that has not been submitted. I actually still haven't heard of satisfying the waiver rule itself about what exactly was out of your control when submitting this application to begin with that it clearly violated this rule.

Leo Vasquez (01:22:55):

Okay, wait. Hang on Robbye. Mr. Marchant,

Kenny Marchant (01:23:00):

I'm ready to make a motion when you're ready to accept one Mr. Chairman.

Leo Vasquez (01:23:04):

A motion to table?

Kenny Marchant (01:23:06):

Deny. There's too much. They're trying to, this is not enough units. They've had all this time. This is not for working families, but you'll have to recognize me,

Leo Vasquez (01:23:30):

Do any other board members have comments?

Holland Harper (01:23:32):

So, I have a different perspective on that. 30 is the standard. They obviously made a mistake by coming in for 56. I have spent lots of time in modular construction and while it all looks great in paper, it is very difficult to make it work. I have done lots and lots of modular construction and I know what happens. You get down this rabbit hole and you think there's going to be this massive savior and then you look at it and go, I could just build this standard for the same price. I'm willing to put a resolution that if it comes in at 33% and meets the standards and the objectives of staff, that it can move forward.

But that would be subject to staff's review. It has to be compliant with everything else other than the 3%. And I would love discussion from the board members if you want, but that's my position.

Leo Vasquez (01:24:35):

Well, I can live with that too, but are we allowed to just, would we simply table or?

Beau Eccles (01:24:48):

What the applicant is seeking is a waiver of this rule.

Leo Vasquez (01:24:55):

No, we're not going to waive it at as presented. As revised, I would bet, my sense is that we would.

Beau Eccles (01:25:04):

I would submit that this lends itself more to tabling this to allow them to bring whatever it is they're going to bring in front of this Board and ask for a waiver at that time.

Leo Vasquez (01:25:18):

I agree with that. Would anyone care to make a motion to table this to get the review revised plans at 33%?

Holland Harper (01:25:29):

Before we go to that Chairman, Counsel, 30 days is 30 days, right? And if you're trying to close by December, life is tough. So they come to here ask for 56. I'm making a suggestion that we change that to 33. They made a position I will not accept 56. That's not acceptable. I would accept a 10% variance inside. They have made a motion we would deny the first one is modified before this board.

Beau Eccles (01:26:06):

What is the legal question for me?

Holland Harper (01:26:07):

I don't know why that would be different. I don't don’t know why that would be different. They made a suggestion for 56. I think this board is unanimous that 56 is not compliant. They've asked for 33 in short notice they have one representative or one board member that would approve that. I mean I would make that motion before, but I don't know why it would be any different than a motion for 56. I'm just modifying what they're asking for.

Beau Eccles (01:26:30):

So, it's essentially waiving the 30%.

Holland Harper (01:26:33):

That's correct.

Beau Eccles (01:26:34):

To put it under the 35%. That's in the pending QAP.

Holland Harper (01:26:39):

I'm making motion. There's three points. Yes.

Anna Farias (01:26:42):

And I would second that motion.

Leo Vasquez (01:26:44):

Can I accept that motion? If so, I will.

Beau Eccles (01:26:50):

Sure.

Leo Vasquez (01:26:50):

Okay. I'll recognize Mr. Harper for a motion.

Holland Harper (01:27:02):

I move the board grant, the requested waiver of 10 TAC §11.101(b) of the Qualified Allocation Plan regarding the percentage of efficiency from one-bedroom units for Oak Hill Lofts apartments at the maximum amount of 33% for the reasons described in the board action request and associated documents of this item.

Anna Farias (01:27:24):

Second.

Leo Vasquez (01:27:26):

Motion made by Ms. Farias, sorry. By Mr. Harper, seconded by Ms. Farias. Can y'all live with that?

Greg Stoll (01:27:34):

One thing? Our current plans have, it is actually 33.3% of the units are.

Leo Vasquez (01:27:41):

Okay, that's good. We're bureaucrats. That's technicality. Will you amend your motion to 34%? It's 30 out of 90. The math.

Holland Harper (01:27:55):

I make the motion for no more than 34 points.

Anna Farias (01:27:58):

Second.

Leo Vasquez (01:27:58):

Okay. Motion made at 34% Seconded by Ms. Farias, All those in favor say aye.

Holland Harper (01:28:04):

Aye.

Anna Farias (01:28:04):

Aye.

Leo Vasquez (01:28:05):

Any opposed?

Cindy Conroy (01:28:07):

Opposed.

Ajay Thomas (01:28:07):

Opposed.

Kenny Marchant (01:28:07):

Opposed.

Leo Vasquez (01:28:08):

Oh Jesus. 3-3.

Robbye Meyer (01:28:14):

Mr. Vasquez, could I, Chairman, let me make my comments that I was going to make. I actually stepped up here to the mic to actually answer your question. For this deal, it actually started in 2021. It really makes a better 9% deal because of the size, but it hasn't been competitive in past years. So he retooled the application to go as a 4% transaction. He since has acquired additional land, but this actually started in 2021 and has evolved. When he turned in the previous application, he had 80% at 50% and below of AMI, which is a great public service. Since he's had to reorganize it, he's still at 50% of 50% of area median income. Still a very good public service and I think that is a good public service for y'all to understand. Most bond transactions don't have that many below the 60% level. I think that's a good thing for you to know. You don't get that many bond transactions that have that. So if that can sway one of you that are opposing it, I know that it could have been out of his control to submit the application. I don't disagree with that, but there is good public purpose behind this development.

Leo Vasquez (01:29:42):

Mrs. Meyer, when you saw that the unit mix was going to change to be way out of spec, you didn't stop him and say this won't work?

Robbye Meyer (01:29:55):

Did we discuss it? Yes, and I also told him that we needed the waiver, and he was going to have to request that and that was going to be a hurdle. I think he will agree to that. That's why he submitted the waiver. But his plans were already in effect, they were already moving through the city of Austin. I mean that was already, it was down the road. He was already spending money with the city of Austin in permitting and all of that. That's the reason why they didn't change. The plans are in the city of Austin as they are. This change that he's got to make, he's got to go back and make that change within the city of Austin. That's why we were trying not to change the building, that structure. He's just got to switch two-bedrooms and one-bedrooms within the structure of the building.

Leo Vasquez (01:30:47):

And the city would still have to approve that.

Robbye Meyer (01:30:48):

Part of Mr. Eccles issue of being out of the owners or the applicant's control, that's part of it because everything was already in motion, and it's been in motion for quite some time. You know how the city of Austin is in moving through the permitting plan. It does take time. So he's had that in the city of Austin and staff can call and find that out, but I just want you to know there is a good public purpose behind this.

Leo Vasquez (01:31:16):

We understand that, but it doesn't comply by far as was presented to us. And do we have, Mr. Marchant?

Kenny Marchant (01:31:26):

What is the relationship you have to the project?

Robbye Meyer (01:31:26):

I'm just as a consultant. I'm not in the deal at all. I'm just a,

Kenny Marchant (01:31:31):

Partner?

Robbye Meyer (01:31:31):

No, I'm not a partner. I'm just a consultant for the deal.

Kenny Marchant (01:31:36):

And you advised him not to do this?

Robbye Meyer (01:31:39):

I did not say I advised him not to do it. I just said he was going to have to have a waiver because we have a rule in place. But again, the plans were already in process. So I mean the waiver was discussed because it's obviously there and it's been there since 2023.

Kenny Marchant (01:32:01):

Thank you.

Robbye Meyer (01:32:02):

Sure.

Leo Vasquez (01:32:02):

Okay. Let me just reiterate one more piece of information for this side of the dais.

Cindy Conroy (01:32:09):

We were waiting for that.

Leo Vasquez (01:32:12):

The QAP as it stands today says we can't have more than 30% one-bedroom or smaller as of December 1st, unless assuming the governor approves it, the QAP is going to now say 35%. So if they brought this deal at the 30 units, 33.3% units as of January 1st, it would comply.

Ajay Thomas (01:32:46):

But when they submitted their original plan, we were under the existing QAP and they knew the rule, correct?

Leo Vasquez (01:32:53):

Yes. Yes. That's why they'd be coming for a waiver. But I'm just,

Kenny Marchant (01:32:58):

In your reconfiguration, have you maximized the number of one-bedroom units you can convert to two, so that you could get down to 30%? Or not doing that?

Greg Stoll (01:33:12):

No. We could create additional floor plans that would have an opportunity to change additional units and basically reconfigure the unit mix again and possibly get underneath the 30%. But again, in the interest of time, given our outstanding bond reservation, we haven't been able to create more floor plans yet. So our current plans have just converted the existing floor plans, which is the same floor plan on all levels.

Holland Harper (01:33:47):

A colleague is asking, are all of the one-bedrooms that you converted to get to 33.3%, did you take all of those to get to 33.1%?

Greg Stoll (01:34:01):

No.

Holland Harper (01:34:02):

Did you take all the ones to turn to twos that are possible?

Greg Stoll (01:34:08):

On the existing floor plan? Yes, we did.

Robbye Meyer (01:34:13):

They're stacked.

Holland Harper (01:34:13):

I'm with you. I'm just making clear that you've taken all the ones to two that you possibly could. In your existing plans that you've already done.

Greg Stoll (01:34:21):

Given the current boundaries of the footprint of the building. Yes, that's correct.

Holland Harper (01:34:25):

Thank you.

Leo Vasquez (01:34:37):

So, if we're deadlocked,

Beau Eccles (01:34:39):

The first motion failed.

Leo Vasquez (01:34:41):

Yes. Yes. Well that one's. But then if we can't make any motion to deny, well,

Beau Eccles (01:34:54):

Another motion would be called for.

Greg Stoll (01:34:55):

We wish that we would've had a dialogue with city planning in advance of last week. Last week.

Leo Vasquez (01:35:05):

But whenever you increase from the originally compliant to the non-compliant, that's when all the red flags should have gone up on y'all’s side.

Greg Stoll (01:35:17):

Understood that was,

Leo Vasquez (01:35:17):

We understand that you're willing to fix it at this point, but the Board is deadlocked on whether to grant you the opportunity to fix it. Anybody, anybody willing to move? So if we're hard deadlocked, we can't approve the motion to allow the waiver. The waiver is not granted by default.

Kenny Marchant (01:36:08):

Mr. Chairman, I would be willing to vote for a motion to table, but they've said that that motion would not give them what they needed. Is that correct?

Greg Stoll (01:36:21):

It's possible. Just given the timing constraints. Again, we are really under the gun, especially since we are applying for a HUD 221(d)(4) loan, and that firm application is due,

Kenny Marchant (01:36:33):

That's a yes, or no?

Greg Stoll (01:36:35):

The answer is no.

Leo Vasquez (01:36:46):

I'm trying to remember. Are y'all not changing your motion on this one?

Ajay Thomas (01:36:59):

No. I would move. I agree with board member Marchant. I'd be willing to support a table and let him come back.

Leo Vasquez (01:37:07):

And let's see what happens. If y'all can work on timing and everything like that, that put everything together. Mr. Marchant, would you make that motion please?

Kenny Marchant (01:37:22):

If I can find the motion here,

Leo Vasquez (01:37:24):

Well just basically say we're willing to the table the,

Kenny Marchant (01:37:29):

I move that the board table the requested waiver of 10 TAC §11.101(b) of the Qualified Allocation Plan relating to the percentage of efficiency and/or one-bedroom units for Oak Hill Lofts. All of the reasons described in the board action request and associated documents for this item.

Ajay Thomas (01:37:54):

I second the motion.

Leo Vasquez (01:37:55):

The motion to table by Mr. Marchant, seconded by Mr. Thomas. All those in favor say aye.

Farias, Thomas, Conroy, Marchant (01:38:02):

Aye.

Leo Vasquez (01:38:03):

Any opposed?

Holland Harper (01:38:05):

Aye.

Leo Vasquez (01:38:06):

Okay, motion carries five to one. This, I'm sorry. It's the best we can do for you right now.

Greg Stoll (01:38:13):

Understood. thank you for your time.

Leo Vasquez (01:38:20):

Moving right along. Item 14, Presentation, discussion, and possible action on Inducement Resolution No. 25-006 for Multifamily Housing Revenue Bonds regarding authorization for filing applications for private activity bond authority. Ms. Morales,

Teresa Morales (01:38:44):

Teresa Morales, Director of Multifamily Bonds. This agenda item includes six pre-application that were submitted to the Department for consideration of an inducement resolution. The adoption of an inducement resolution is the first step in the process. It allows us to file for volume cap with the Bond Review Board and get into the full application process where we do more thorough reviews, underwriting, and vetting of the bond structure. There will be a final bond resolution for each of these transactions that is brought before the Board once all of that happens requesting consideration of the actual bond issuance.

General descriptions of each of the developments are included in the write-up. The majority are new construction located in Dallas with another one located in Houston and another in Wilmer, that would yield just over 1,100 units. In total these projects are requesting approximately $223 million in bond volume cap, which exceeds the amount that staff expects to be available in the TDHCA set-aside for 2025. Reservations will be issued with available cap and the rest will remain on the waiting list to be reserved as volume cap may become available. Staff recommends adoption of Resolution No. 25-006 with the respective amounts for each project as reflected therein.

Leo Vasquez (01:40:07):

Okay, great. So these are just our standard 4% waiting list,

Teresa Morales (01:40:11):

Correct. Gearing up for 2025.

Leo Vasquez (01:40:14):

Okay, do board members have questions for Ms. Morales on this item? Hearing none, I'll entertain a motion on item 14 of the agenda.

Anna Farias (01:40:28):

Mr. Chairman, I move the Board approve inducement Resolution No. 25-006 and proceed with the application submissions to the BRB for possible receipt of state volume cap issuance for the pre-application described and as conditioned and authorized in the board action request resolution and associated documents on this item.

Leo Vasquez (01:40:54):

Motion made by Ms. Farias, seconded by Mr. Harper. All those in favor say aye.

Board Members (01:40:58):

Aye.

Leo Vasquez (01:40:59):

Any opposed? Hearing none. Motion carries.

Item 15 of the agenda, boy this sounds familiar. Presentation, discussion, and possible action on Inducement Resolution No. 25-010 for Multifamily Housing Revenue Bonds or Notes regarding authorization for filing applications to be added to the Department’s Waiting List for private activity bond authority and/or submitted for Traditional Carryforward for Braniff Lofts. Where is he? Okay, Ms. Morales, what's new on this?

Teresa Morales (01:41:36):

This agenda item includes consideration of an inducement resolution for Braniff Lofts, which was a proposed supportive housing development in Dallas to include 48 units. This development was previously submitted under the 9% competitive program this year but did not receive an award. Staff anticipates submitting the bond application for a traditional carry forward in 2024, which will come with a three-year closing deadline. Given the uniqueness of the project and historic nature of the building, it will likely need longer than the typical 180-day closing deadline. Staff recommends adoption of Resolution No. 25-010 in the amount of $20 million.

Leo Vasquez (01:42:19):

Okay, so this structure should be able to meet their financing stack and get done if this is approved?

Teresa Morales (01:42:31):

Subject to Department underwriting and review, yes.

Leo Vasquez (01:42:35):

Okay, but haven't we kind of reviewed it once or twice already?

Teresa Morales (01:42:40):

Not from the bond side.

Leo Vasquez (01:42:45):

Okay. Alright. But this is just an inducement that gets a path forward and subject to all the other underwriting?

Teresa Morales (01:42:54):

Correct.

Leo Vasquez (01:42:58):

It would be adding to the waiting list as well. Mr. Marchant, I recognize you for a motion.

Kenny Marchant (01:43:08):

I move the Board approve Resolution No. 25-010 and proceed with the application submissions to the BRB possible receipt of state applications for Braniff Lofts, all as described, conditioned, and authorized in the board action request resolution and associated documents on this item.

Holland Harper (01:43:28):

Second.

Leo Vasquez (01:43:29):

Motion made by Mr. Marchant, seconded by Mr. Harper. All those in favor say aye.

Board Members (01:43:33):

Aye.

Leo Vasquez (01:43:34):

Any opposed? Hearing none. Motion carries and persistence pays.

Item 16 of the agenda Presentation, discussion, and possible action on Inducement Resolution No. 25-007 for Multifamily Housing Revenue Bonds regarding authorization for filing an application for private activity bond authority for Fiji Lofts. Ms. Morales.

Teresa Morales (01:43:59):

Item 16 includes consideration of an inducement resolution associated with a request for a supplemental bond allocation. The owner has requested the Department issue additional tax-exempt financing to offset the increased costs and allow the project to meet the 50% test, which I'll go into details about that in a bit.

Fiji Lofts was a new construction development located in Dallas that closed in December of 2021. The project is comprised of two buildings with four floors each and included 174 total units. The Department knew at the time of closing that the applicant intended to increase the total number of units by 30, so from 174 to 204 after closing. The intent was always to build 204 units but as the project went through the permitting process with the city, there was a technical issue that was discovered with the zoning regulation that could not get resolved prior to the expiration of the bond reservation and closing. In December of 2022, the Department's Governing Board approved a material amendment to increase the total number of units from 174 to 204 by adding a floor to one of those buildings.

(01:45:14):

In addition to the increase in units, there have been cost increases during construction such that the applicant is concerned that the project may not meet what we call the 50% test. A project is eligible for the 4% housing tax credit so long as at least 50% of the aggregate basis of the building comprising the project, including the land on which the building is located, is financed with tax exempt bonds. It's more of an accounting function. The aggregate basis of a building includes depreciable building costs plus land. There are certain costs that cannot be included in the calculation, which includes marketing costs, cash reserves, and others that are not depreciable. Those are not included. The Department's underwriting on the front end at application includes a 50% test calculation, but this is preliminary and based on what an applicant believes those costs will be on the back end at cost certification.

(01:46:19):

When the project is complete, we receive a report from the CPA that provides the final calculation on what the costs actually were and categorizes those costs appropriately. For Fiji Lofts just to walk through the calculation, the depreciable building cost is approximately $52 million. The land cost was $1.7 million. Bringing the aggregate basis to approximately $54 million. Using these numbers and sticking with the original bond amount of $23.8 million, the 50% test calculation would be 44%. A supplemental bond issuance of approximately $5.7 million would bring that calculation to 54%. The inducement resolution is requesting $6 million as a maximum amount and the exact amount to be issued will be solidified during the application and underwriting process. But the maximum request does provide flexibility until we get to that particular point. Requesting a supplemental bond allocation to meet the 50% test is not uncommon in recent years. In fact, during the last legislative session, the Bond Review Board's governing statute was changed in response to a bill that prioritized projects for needing additional bonds to meet the 50% test over regular projects.

(01:47:44):

There have been supplemental bond allocations on a few local issuer transactions, and this is not the first request that the Department has received for one of its previous transactions. Last year the Department issued supplemental bonds on two transactions that were not going to meet the 50% test. To substantiate the increased costs the applicant provided a schedule of values that compares the original construction numbers to where they believe the project will end up. Separate from what was submitted in their supplemental application. The Department receives quarterly construction reports that I'll refer to as the CSR, that are intended to inform the Department how construction is progressing, delays in completion, and change orders that occur. Staff compared the schedule of values in the supplemental application to the most recent submission of that CSR and found them to be in line with one another. Meaning there were not vast differences in costs that could not be explained.

(01:48:46):

The CSR that was dated June of 2024, reflected $5.8 million in change orders which has since increased to $7.6 million bringing the total construction contract to $36 million from 34 that was in that Construction Status Report. It's important to note that this original value did not consider the increase in units that occurred after closing. As a side note, staff did re-underwrite this deal at the time the material amendment was requested, and the applicant indicated the total value of the construction contract was $34 million. The 50% test calculation at that time was 50.01. All of this to say that staff has been aware of the gradual increases in costs throughout the construction process and the potential risk associated with not meeting the 50% test. Staff recommends adoption of Resolution No. 25-007 in the amount of $6 million.

Leo Vasquez (01:49:49):

So, this is a 2021 deal?

Teresa Morales (01:49:52):

Correct.

Leo Vasquez (01:49:57):

And they added 30 units from the original 174?

Teresa Morales (01:50:02):

Correct.

Leo Vasquez (01:50:04):

So, they increased 17.4% more units by my math. Why does it cost 60% more to build? Why is the cost increased 60% when you're only adding a marginal amount of additional units? That just doesn't seem to add up to me. Yes, we all know that answer is. Do we know how much the developer fee is increased in that portion? I didn't see it in the material.

Kenny Marchant (01:51:00):

Would be 15% of the 5 million?

Leo Vasquez (01:51:06):

$6 million.

Teresa Morales (01:51:10):

The developer fee at original application was $5.6 million, approximately. In their supplemental it is suggested to be $6.7 million.

Leo Vasquez (01:51:29):

So, a million, one off the original 5.6 of 20%?

Again, just so I understand or maybe even the board members understand, so they're changing it from 174 to 204. They didn't have to check with us first before they say, hey this is going to increase?

Bobby Wilkinson (01:52:07):

They did approve, the Board approved on,

Leo Vasquez (01:52:09):

The material amendment?

Bobby Wilkinson (01:52:09):

Yes.

Leo Vasquez (01:52:09):

Including this cost 60% increase?

Bobby Wilkinson (01:52:15):

I'm sure we didn't know costs that well.

Kenny Marchant (01:52:21):

So is the increase of cost in line with the cost per unit on the original project of 174?

Teresa Morales (01:52:31):

I don't believe so. No. I don't believe so. No.

Kenny Marchant (01:52:35):

Is it significantly higher?

Teresa Morales (01:52:39):

I don't know.

Leo Vasquez (01:52:40):

It has to be because you have all the fixed costs of the land and the site prep and all such. That doesn't increase with the number of units. So somehow this is just way higher per unit to add these 30. It seems. Why does this suddenly become our problem at the Department? Yeah, I don't know what the rest of the board members feel. I guess there's not a representative from the developer here.

Bobby Wilkinson (01:53:16):

I would say it's partially on the Department because we approved the additional units in part.

Leo Vasquez (01:53:31):

Does anyone care to make a motion on this item of the agenda number? Item 16.

Holland Harper (01:53:45):

Can you give us some math again? So originally it was 23.8 was the bond. The original cost was how much again? 34?

Teresa Morales (01:53:56):

29.

Holland Harper (01:53:56):

29. And it jumped to 36.

Teresa Morales (01:54:02):

The construction contract, yes.

Holland Harper (01:54:04):

Okay. So the construction contract jumped from a 2021 deal to a 2024 deal from 29 to 36, is that correct?

Teresa Morales (01:54:17):

Correct.

Holland Harper (01:54:18):

Alright, so we went up $7 million in that period of time.

Teresa Morales (01:54:21):

Correct.

Holland Harper (01:54:21):

We added more units. In the highest level of construction inflation that I have experienced. Okay. So I just usually, I'm the mean guy up here, but I'm just giving you guys some background of what has happened in the market at that moment. We saw about 26 to 32 points of inflation in that period of time, and it was a very difficult time to build. So our client here, our developer has added more units, and the rates goes up and he's been asking for $6 million more of bond allowance. Teresa, am I correct in that?

Teresa Morales (01:55:10):

Mumm-hmm [affirmative].

Leo Vasquez (01:55:10):

Okay, let's clarify one more number though. What was the original cost of the project?

Holland Harper (01:55:15):

29?

Leo Vasquez (01:55:16):

No, that's the bonds, right? Or construction cost?

Teresa Morales (01:55:20):

$23 million was the original bond amount.

Leo Vasquez (01:55:23):

Okay, but what was the original development costs for the entire project? Was it $51,409,000?

Kenny Marchant (01:55:42):

I think it was.

Leo Vasquez (01:55:43):

While she's looking at that. My understanding is that the original project was $51,409,000. The revised final amount is $81,763,000 a $30 million increase.

Teresa Morales (01:56:02):

The total development cost, what they've projected the total development cost to be is $56 million. The 36 that I was referring to earlier, that is the value of the construction contract.

Kenny Marchant (01:56:23):

We would have been interested in the increase in cost. Can I ask? They have no one present?

Holland Harper (01:56:40):

Chairman on 16. Where do you have that in your packet? Because I don't see those numbers.

Leo Vasquez (01:56:48):

Well, I was provided a summary, which apparently is not accurate.

Tekevwe Okobiah (01:57:01):

Good morning board. My name is Tekevwe Okobiah, I work with Sphinx Development Corporation. We are the developers on this project. If I can speak to, I think the number that you're looking at might be the total basis after the boost, but the total project cost is certainly not 80 something million dollars.

Leo Vasquez (01:57:30):

Do you know what the total development costs?

Tekevwe Okobiah (01:57:33):

Without,

Leo Vasquez (01:57:35):

Ballpark? Don't have to be exact.

Tekevwe Okobiah (01:57:37):

Yeah, it's going to be in that 56, $57 million range, total development costs.

Kenny Marchant (01:57:45):

Next question.

Leo Vasquez (01:57:46):

Mr. Marchant?

Kenny Marchant (01:57:47):

What does the Cameron County Housing Finance Corporation have to do with this project? Isn't Cameron County down in south Texas?

Tekevwe Okobiah (01:57:57):

So, they our nonprofit partners in general for most of the bond and 4% projects.

Kenny Marchant (01:58:05):

In Dallas?

Tekevwe Okobiah (01:58:06):

Yes.

Kenny Marchant (01:58:08):

Brownsville? Cameron County is your finance partner in Dallas?

Tekevwe Okobiah (01:58:14):

Well, yes sir. I believe that the way the statute is structured, it allows the housing finance corporations,

Kenny Marchant (01:58:27):

Dallas Housing Authority, they passed on this?

Tekevwe Okobiah (01:58:32):

Due to the timing for closing the bonds. Their procedures wouldn't have allowed us to meet the 180-day deadline to close the bonds.

Kenny Marchant (01:58:43):

But Cameron County rose to the rescue?

Tekevwe Okobiah (01:58:47):

Yes sir.

Anna Farias (01:58:51):

Is there anyone here from Cameron County?

Tekevwe Okobiah (01:58:55):

I don't believe so ma'am.

Kenny Marchant (01:58:56):

It's rent a deal. You just find the county; you just find the housing authority that's willing to underwrite it and they get the fees.

Bobby Wilkinson (01:59:05):

So, it is legal.

Kenny Marchant (01:59:07):

I understand.

Bobby Wilkinson (01:59:07):

Yeah, and I expect legislation based on conversations this coming session to probably close that.

Kenny Marchant (01:59:17):

Thanks.

Leo Vasquez (01:59:19):

Okay, so the total development costs around 56. I mean the total only increased that smaller percent. The figures I was looking at with $51 million going up to $81 million are not applicable to this. And I guess Ms. Morales, someone put forth when summarizing the agenda for me, put in those crazy high numbers. You're saying those don't apply. It's these ones you're telling us today,

Teresa Morales (01:59:56):

Teresa Morales. For this transaction, those numbers are not correct. What they represented in the supplemental application are total development costs of approximately $56 million. At the time of the original application, it was approximately $51 million.

Leo Vasquez (02:00:12):

Okay. Okay, that gives me a whole different perspective on having heartburn over inaccurate numbers. Okay, well, okay, well before this, the staff's recommendation is to grant this motion for the additional $6 million inducement, right? Does anyone want to make a recommendation or a motion on staff's recommendation or do we need further discussion and input?

Kenny Marchant (02:00:51):

I think my observation is they are to be commended for putting more units out there. I just don't understand how they got there in the financing, and I don't know if it's our motion to recommend this, send a signal to the development community that this can happen without. It's pretty interesting signal, but I understand the cost escalation.

Leo Vasquez (02:01:24):

Okay. Well and again I thought it was a way, way higher increase, so I'm comfortable with this.

Kenny Marchant (02:01:30):

Okay. Yeah, I mean it still comes in around $275,000 a unit, which is pretty much what most units are. So if it had escalated way way up.

Holland Harper (02:01:44):

Mr. Chairman, I move the Board approved the inducement Resolution No. 25-007 and proceed the application submission for the BRB for possible receipt of state volume cap issuance for the supplemental bond application for Fiji Lofts, all as described conditioned and authorized in the board action request resolution and associated documents of this item.

Leo Vasquez (02:02:08):

Motion made by Mr. Harper to approve.

Cindy Conroy (02:02:11):

Second.

Leo Vasquez (02:02:12):

Ms. Conroy seconds. Any further discussion? All those in favor say aye.

Board Members (02:02:19):

Aye.

Leo Vasquez (02:02:19):

Any opposed? Motion carries. Alright, thank you.

Tekevwe Okobiah (02:02:24):

Thank you.

Miguel Herrera (02:02:28):

If I may, I just want to clarify, the Cameron County entity mentioned right now has nothing to do with either the housing authority of the city of Brownsville, which I am a part of or the Cameron County Housing Authority. The Cameron County Finance entity is just a nonprofit but has nothing to do with the housing authorities there.

Kenny Marchant (02:02:51):

Okay.

Leo Vasquez (02:02:52):

Okay. And I'm sorry, just since you spoke, can you state your name for the record and sign in or repeat your name for the record?

Miguel Herrera (02:03:03):

Miguel Herrera from HACB.

Leo Vasquez (02:03:11):

Okay, moving along this item 17 Presentation, discussion, and possible action on Inducement Resolution No. 25-009 for Multifamily Housing Revenue Bonds regarding authorization for filing an application for private activity bond authority for Murdeaux Villas. Ms. Morales,

Teresa Morales (02:03:35):

Like the previous item, item 17 includes consideration of an inducement resolution associated with a request for a supplemental bond allocation. The owner has requested the

Department issue additional tax-exempt bonds to offset the increased costs and allow the project to meet the 50% test. Murdeaux Villas involved the issuance of $35 million in tax exempt bonds for the acquisition and rehabilitation of an existing affordable development that closed in May of 2021. The scope of work planned was not just the normal rehab, but it also included some demolition and increase in the total number of units from 240 to 301. So a 61-unit increase, as three- and four-bedroom units with a history of low occupancy were converted to one-bedroom and efficiency units. As it relates to the 50% test calculation, assuming the original issuance of $35 million and the increased costs that they represented, it would put the calculation at approximately 45.3% with the additional issuance of $5 million.

(02:04:44):

It would put the calculation at approximately 51.7%. In response to questions that staff raised during its review, the owner provided a side-by-side comparison of the costs at the time of the original application and what they believe the final costs will be. Exhibit A behind this item includes a breakdown of those costs. As I mentioned on the previous agenda item, there are a Construction Status Reports that are submitted to the

Department and staff reviewed the side-by-side comparison to the most recent CSR submission. The difference in the construction contract values between the documents was $13 million in additional costs that have been identified. The owner explained this large and what seemed to be a recent discrepancy attributable to them working over the past few months to bid out and price the project. As a point of clarification that I need to make, the Board writeup incorrectly notes that the developer/contractor notified the general partner that it was intending to stop work on the project.

(02:05:56):

The clarification being that those entities are not one and the same. It was the contractor who notified the general partner that it was intending to stop work on the project. Since that time, the owner has taken over and has been working to bid out the remaining work when they realized that the original bid was substantially understated. The owner has contributed over $6 million to keep the project moving forward. In addition to the change in contractor, the owner is also in the process of trying to secure another equity investor. While the cost increases and circumstances with which the owner is in is concerning. As a matter of full disclosure to the Board, there are also concerns that staff has relating to the original bonds. The financing structure at closing involved IBC bank holding the bonds during construction serving as the construction lender, Freddie Mac would then purchase the bonds at conversion and hold during the permanent phase.

(02:06:54):

The original conversion date or what is termed the forward commitment maturity date was November 1st, 2023. Shortly prior to this date, the Department became aware that the parties were contemplating a modification of the construction period interest rate in connection with an extension of that maturity date to May 1st, 2024. So a six-month extension of conversion. The interest rate during the construction period was variable rate and equal to the greater of 4.75% in the New York Prime in effect on the date of the calculation plus 1.5%. Since the transaction closed, the New York Prime rate increased at an unprecedented pace which resulted in a construction period interest rate that was not sustainable for the project. Considering the extension that was needed before conversion was to occur, the parties entered into an interest deferral agreement that modified the construction period interest rate from 10% to 7% with the remaining 3% deferred and to be paid at conversion.

(02:08:04):

The interest deferral agreement is in effect through the earlier of June 30th, 2025, or the conversion date. The extension to the conversion was approved by IBC Bank and Freddie Mac. It was through May 1st, 2024. The department has not been advised whether a second extension was or will be granted or when conversion is expected to occur. Based on the documents available to the department through the construction status reports, the project is estimated to be complete in May of 2025. While there are still some unanswered questions relating to the status of the original bonds, there have been a series of unfortunate events associated with this development that the owner is actively working to remedy in order to move it forward. Approving the inducement resolution today will create a sense of urgency in getting all parties on the same page and developing a path forward since there is a 180-day deadline to close. Should closing not occur by this date, the department will return the reservation and the volume cap will flow to the next project in line. Staff recommends adoption of Resolution No. 25-009 in the amount of $5 million.

Leo Vasquez (02:09:22):

Anyone have a question?

Kenny Marchant (02:09:25):

Are there pictures? Is there some visual thing I can look at that? I would think that if I could look at it visually, I would know whether they're actually changed by what stage is it in? Anybody know?

Leo Vasquez (02:09:46):

Or we have some builder representatives. Okay, well hang on just a second. Are there other questions that Teresa can answer? Okay, let me ask before we get y'all to come up. So in the side-by-side table of the original costs and the supplemental costs, again they increased the units by 25% went from 240 to 300, is that right?

Holland Harper (02:10:19):

240 to 301.

Leo Vasquez (02:10:20):

Okay. Alright, so roughly, okay, 25%

Teresa Morales (02:10:24):

A reconfiguration.

Leo Vasquez (02:10:25):

So that will account for some of the pricing increase because we're frequently seeing prices increase 30, 40%. But these prices, I mean I'm just looking at all these costs doubling or more, which just raises all kinds of red flags, including the developer fee going from $4,490,000 to $9.1 million, that’s over $5 million. Right? So that’s added to the cost. If that didn’t increase this, we’re asking for $6 million?

Teresa Morales (02:11:11):

Five.

Leo Vasquez (02:11:11):

$5 million? Half of that disappears if we stuck with the original cost. Am I making sense on that? By just the math. You have to have 50% of costs covered by the bonds and if we're increasing the costs via developer fee by $5 million, that means you need two and a half million more bonds. Anyone? I think this is easy math, isn't it? So the fact that they increased the developer costs, developer fees that accounts for half of this bond increase the inducement that they're asking for,

Teresa Morales (02:11:57):

I don't know that that's the way that I look at it. The increase in developer fee is a function of the increase in costs. If you removed the increased developer fee, I don't know that that would get them to achieve the 50% test.

Leo Vasquez (02:12:13):

Well, it would be half of it is what I'm saying is that it gets us partially there and then the financing cost doubling seems again, we can understand that there's cost structures and we can have Scott come back up here and talk to us about interest rates again, but doubling the financing costs just seems extraordinary as well. Mr. Harper, did you have any questions or comments?

Holland Harper (02:12:48):

Did square footage increase or stay the same?

Teresa Morales (02:12:53):

It stayed the same. So the increase in 61 units that was known at the time of application that was factored into our underwriting. It's not like the previous transaction where they did that after closing.

Holland Harper (02:13:05):

So square footage stayed the same. We just added more bathrooms, kitchens and restrooms or showers. More doors, same square footage. Okay, so I've got like a cost of 197 K originally per door and now we're at 271 K per door and the 301, which is like 39, 38% increase in cost if you look at it on a door cost, but our square footage didn't change.

So, it looks like the developer wants to speak.

Leo Vasquez (02:13:44):

Yeah, let's come on. Please come up here, identify your name and which organization where you fit in.

Adam Horton (02:13:53):

My name's Adam Horton and I'm with Trinity Housing Development who is the developer. A couple of things I want to clarify. In looking at the side-by-side comparison, the 14.89, we must have entered that incorrectly. That is the cost that has been spent to date. The original construction contract was $22 million, so you have an increase from $22 million to $31 million, which I think is much more in line with what you've seen in inflation. Regarding the financing cost. That is all a function of the interest rate. As Teresa mentioned, we started out with a 4.75% interest rate and up until January or December 1st, 2023, that had risen to 10.5%. And there were also significant delays in the project that just every month accumulates more and more interest. Regarding the developer fee, it did increase. I would argue to some degree that's an increase on paper. We are deferring a hundred percent of our developer fee at this point in working with PNC.

(02:14:54):

The increase in the developer fee gets you more tax credit basis, which means PNC will pay more, but put more money into the project, but we are not receiving any developer fee on this deal at this point. We have taken over as a general contractor and we are not taking any general contractor fee at this point. We have put $6 million in the project and we're probably not going to get all of that back either once we bring in PNC as their investor.

There were a couple of things I just wanted to say. We do thank you for your consideration of this matter. We've been in Texas quite a while. We have over 20 projects that we've developed, and we have more in the pipeline, and we try to be the best stewards of the taxpayer money as we can. We did close in 2021.

(02:15:40):

You've seen significant construction increases and interest rates that hampered the project and there have been significant delays both Covid-related and then we had an issue with Entergy. The energy provider there delayed the project six months on the reconfigured units. They had to come out and hook up additional electric. So that's our reason. As it was mentioned, we did have an original contractor on this. They terminated toward the end of 2023, so we probably started out with the budget. That was a little bit on the light side, but we have worked this with our subcontractors to get an exact number on construction.

Holland Harper (02:16:21):

Was your general contractor bonded to you?

Adam Horton (02:16:24):

They were not bonded.

Holland Harper (02:16:25):

Were your subcontractors bonded to you? To the general?

Adam Horton (02:16:29):

I don't know if they were bonded to the contractor.

Holland Harper (02:16:31):

And there was no sub guard on the project?

Adam Horton (02:16:33):

There was what?

Holland Harper (02:16:34):

It's another way to bond.

Adam Horton (02:16:35):

Oh,

Holland Harper (02:16:38):

My next question is, did you have an option on a variable rate versus a fixed rate during construction? It seems like a lot of risk for a developer.

Adam Horton (02:16:49):

I think. I mean there's a lot of construction loans that had variable rates at that point because rates were so low and they had been so low for so long, I don't think anybody foresaw the rapid rise in rates.

Holland Harper (02:17:01):

What was your original cost? Because the numbers we have before this board are different than what your original costs were, which is skewing the inflation that we experienced in that time.

Adam Horton (02:17:13):

I think there's about a seven and a half million-dollar discrepancy in the starting numbers, which are at $47 million.

So, I think it was closer to $54 million and now it's at 81. I think $9 million is construction related, $5 million is related to the construction interest and then $5 million for the developer fee. That is basically just a function to generate more tax credits through the 4% program and get more money into the project.

Holland Harper (02:17:41):

Thank you, sir.

Kenny Marchant (02:17:43):

Chairman. You said you put; how much money is the project?

Adam Horton (02:17:47):

Trinity has put up close to $6 million in the project to date to keep it moving.

Kenny Marchant (02:17:53):

Or is that a loan that's going to be reimbursed to the final finance?

Adam Horton (02:17:57):

It is a GP loan. Currently at least $3 million of it is figured in to be left into the project. Long-term.

Ajay Thomas (02:18:08):

Mr. Chairman, just for my own education, what makes up soft costs?

Adam Horton (02:18:18):

It would be architect fees, financing fees. We did have to do two extensions with Freddie Mac. One was about 250 and then we have worked on the second extension. It's not been executed, but that fee to extend that to end of 2025 was another six or 700,000 to extend that Freddie loan, which has a 4.54% perm rate, which is very attractive. We want to maintain that rate and Freddie Mac is committed to the project. We've had multiple calls with them.

Ajay Thomas (02:18:53):

Thank you.

Leo Vasquez (02:18:55):

Okay, so to recap fee, the developer fee is all being deferred?

Adam Horton (02:19:00):

Yes.

Leo Vasquez (02:19:00):

And the contractor fee is?

Adam Horton (02:19:04):

We're not taking any contractor fee because we took over as,

Leo Vasquez (02:19:07):

The contractor. You got rid of the contractor and then the building costs that are in the board book the original or understated by $7 million or so.

Adam Horton (02:19:18):

Right.

Holland Harper (02:19:21):

I'm going to read some numbers to you. Tell me if you think these numbers are correct because it’s going to make your life a lot worse. You're going to spend $81 million, $81.67 million. You're going to build 301 doors, which is roughly 269 K doors, and somebody double check my math here that’d be great. Your original costs were $54 million for 240 doors or 225K a door, which would be a 19% increase in your cost from the original doors to the second doors.

Adam Horton (02:19:56):

Okay. Yes.

Holland Harper (02:19:57):

You like that number?

Adam Horton (02:19:58):

I believe that's correct.

Bobby Wilkinson (02:19:59):

I think we were always going to planning on 301 doors.

Holland Harper (02:20:04):

Okay. Was there always 301 doors? Not 240?

Adam Horton (02:20:07):

I think. Yeah, when we applied, we intended to do the 301.

Kenny Marchant (02:20:15):

So, can I ask the question? Can you finish by this deadline that's been put on?

Adam Horton (02:20:21):

We can. We were working with PNC coming in as the equity investor taking out the original equity investor. They've done multiple site visits, and they are comfortable. We've got about a six-to-eight-month construction phase.

Kenny Marchant (02:20:34):

What stage is it in?

Adam Horton (02:20:36):

So, a hundred units of the 301 units are essentially ready to be placed in service. We're waiting to place them in service until we have the investor in for tax credit purposes. And then the final 200 will be rehabbed between six to eight months.

Kenny Marchant (02:20:51):

So it's a rehab?

Leo Vasquez (02:20:58):

Okay. Well given the, go ahead. Go ahead.

Holland Harper (02:21:02):

Was it always 301?

Adam Horton (02:21:03):

Always 301,

Bobby Wilkinson (02:21:05):

Always planned to be 301, right? It's acquisition rehab. So they bought it and it had 240, but the plans from the beginning were to create 301 units in that structure.

Holland Harper (02:21:17):

Was it 50% more per door than it was because you had so many more doors, less more. Now that they're more costs same doors.

Adam Horton (02:21:26):

It went from $22 million to $31 million.

Holland Harper (02:21:28):

50%? Yeah, it's 50%. It's 50% of those.

Adam Horton (02:21:35):

And again, I mean for just clarification purposes, we were not the original contractor. Our mistake probably or not. And we've taken over as contractor and feel confident with what that cost is now.

Leo Vasquez (02:21:54):

Okay. Staff's recommendation is to? Where were we on staff's recommendation, Teresa? Were you going to come back and resummarize?

Teresa Morales (02:22:08):

Staff recommends that the inducement resolution in the amount of $5 million be approved.

Leo Vasquez (02:22:14):

Okay. Does anyone care to make a motion on this item of staff's recommendation?

Ajay Thomas (02:22:27):

Mr. Chairman, I move the Board approve inducement Resolution No. 25-009 and proceed with the application submissions to the BRB for possible receipt of state volume cap issuance for the supplemental bond application of Murdeaux Villas, all as described, conditioned, and authorized in the board action request resolution and associated documents on this item.

Leo Vasquez (02:22:47):

Motion made by Mr. Thomas. Is there a second?

Anna Farias (02:22:52):

Second.

Leo Vasquez (02:22:53):

Seconded by Ms. Farias. All those in favor say aye.

Farias, Thomas, Conroy, Marchant (02:22:58):

Aye.

Leo Vasquez (02:23:02):

Any no's?

Holland Harper (02:23:04):

Abstain.

Leo Vasquez (02:23:07):

Okay, so we have five yes’s and one abstain. Motion carries. Continuing. Okay, 18, is still on the agenda? Yes. Was one of them pulled?

Bobby Wilkinson (02:23:33):

19.

Leo Vasquez (02:23:33):

Okay. Okay, so 18. Presentation, discussion, and possible action on Inducement Resolution No. 25-005 for Multifamily Housing Revenue Bonds regarding authorization for filing applications for private activity bond authority for Legacy Riverside Senior Living Community. Ms. Morales.

Teresa Morales (02:23:53):

Continuing with the theme, Item 18 also includes consideration of an inducement resolution associated with their request for a supplemental bond allocation. The owner has requested the department issue additional tax-exempt bond financing to offset the increased costs they believe will allow the project to meet the 50% test. Legacy Riverside Senior Living involved the issuance of $40 million in tax exempt bonds for the new construction of 264 units in Fort Worth. The transaction closed on December 21st, 2020. As it relates to the 50% test calculation, as noted previously, staff performs a preliminary calculation at the time of original underwriting. While the bond amount is fixed. The aggregate basis portion of the calculation is somewhat variable since it's based on an estimate of what the applicant believes the costs to be at the time of the original underwriting. Utilizing a bond issuance amount of $40 million, the percent financed by tax exempt bonds was 94.3%.

(02:24:59):

Considering the cost increases, assuming the original bond amount, the 50% test calculation based on the numbers provided by the applicant is 49.6%. And with the supplemental bonds bringing the total tax-exempt bond amount to $45 million, it was represented that it would bring the calculation to 55.8%. The supplemental application included a construction contract with a detailed schedule of values that is intended to support the costs that the owner reflected in the cost schedule in the application. Staff reviewed this document and noticed many inconsistencies between the schedule of values and the cost schedule, meaning the document did not substantiate the costs that were being represented. As previously mentioned, construction status reports or CSRs are provided quarterly to the department. So staff pulled the CSR from July of 2024 to review the construction contract provided therein and found there to be even more inconsistencies across all of the documents.

(02:26:05):

In reviewing the past three quarterly submissions of the CSR, the contract amount remained the same and the change orders to date remained the same. The total construction contract value was stated on these reports as approximately $40 million, and it was represented that the project was 72% complete. The value the owner reported in their supplemental application was approximately $54 million, representing $14 million in additional costs that were identified. When staff questioned the discrepancy, the response was that the next CSR submission would reflect the change in costs.

The next CSR submission is actually today for the previous quarter. Staff was notified on Monday of this week that due to logistical issues; the owner is requesting an extension. On the submission of that report, staff further inquired about what logistical issues there were and have not received a response. On September 5th, staff requested additional information relating to the $14 million in change orders that had been identified.

(02:27:16):

The owner indicated that they were working with their construction team to get the numbers together and reconciled, and two weeks after the initial request a change order in the amount of $14.8 million was submitted. This is included as Exhibit A in your materials. After reviewing the change order there are still questions as to its accuracy. As an example, the supplemental application reflected a cost associated with a playground. Recognizing this is a senior property, staff asked the owner to confirm whether there was going to be a playground and was told that the cost for the playground was going to be removed. The change order included in Exhibit A reflects that there has been a change order in the amount of a hundred thousand dollars for a playground and provides an explanation as to why there has been an increase in this line item. Staff again asked the owner to confirm if there was going to be a playground and was told there is no playground.

(02:28:12):

Aside from the discrepancies and the costs that have been submitted, there are also concerns relating to the original bonds. Like the previous agenda item, this financing structure involved IBC Bank as construction lender with Freddie Mac coming in at conversion, purchasing the bonds and holding them during the perm phase. The forward commitment maturity date, or conversion date was originally identified to be July 1st, 2023, but was extended to July 1st, 2024. The Department has not been advised whether a second extension was or will be granted or when conversion is expected to occur. Considering the questionable construction status reports, in addition to the inconsistent construction costs identified in the supplemental application, staff is concerned regarding the extent to which the actual costs are known and whether the additional $5 million being requested is accurate or even needed. The owner is asking the Department to reserve $5 million from its set-aside, which is oversubscribed by $75 million. Based on things that we don't know. And based on information provided that has been inaccurate, staff's recommendation on moving forward with the inducement resolution is neutral.

Leo Vasquez (02:29:27):

Is this common to have such varying numbers of discrepancies reporting in your experience with us?

Teresa Morales (02:29:41):

Based on what I have seen, no.

Leo Vasquez (02:29:43):

I can't recall having heard of it in the last seven, eight years. I mean that's. The management, the developer fee on this one also doubled or?

Teresa Morales (02:30:03):

It went from $5.9 million to $10.1 million.

Leo Vasquez (02:30:08):

Okay. Not quite doubling, but pretty close. And then we're unclear as to the timing of when this is going to be actually completed?

Teresa Morales (02:30:19):

Correct.

Leo Vasquez (02:30:26):

Would any representative of the developer care to explain? Again, please sign in, state your name, and is this still?

Melissa Fisher (02:30:46):

Good morning, Melissa Fisher with Rise, I'm part of the developer. So we have several questions here and I haven't been directly related in the pre-application of the application. So I'm kind of gathering there's been a little bit of miscommunication between our staff and your staff, and I completely understand. And the good thing about this is that we do have time to go through a full underwriting process and we completely intend to make sure that your staff is completely comfortable with this development in its entirety.

Leo Vasquez (02:31:18):

Sorry to interrupt. So are you the developer or the general contractor?

Melissa Fisher (02:31:24):

Both.

Leo Vasquez (02:31:24):

Or Both.

Melissa Fisher (02:31:24):

Developer and general contractor.

Leo Vasquez (02:31:26):

Okay.

Melissa Fisher (02:31:28):

But we intend to answer all the questions and make sure that they completely understand all of the backup, all of the numbers that go into this. The big picture is here, as you heard today, is we're trying to meet the IRS guidelines for this 50% test. If we don't meet the 50% test, which it is a paper calculation effort, right? At the end of the day, if you don't make the test and you don't need the money, you don't take the money. We don't get excess funds. The developer fee question, same answer. Agree with the previous applicant. We would never, ever collect $10 million in developer fee. We also will not get any developer fee. I would be surprised to see any developer in the last two years collecting any developer fee on these 4% bond transactions. But on paper, as Teresa said, it's a calculation based on the complete development cost.

(02:32:33):

And then your other question was timing. So the question she had about the construction status reports compared to our application. Previous quarters, we did not update our G702, which is the draw form showing complete, completed it to date and the full construction contract amount. We did not adjust that based on our lenders and investors requests until we knew our final, what we really, really, really believed our final contract to be. They did not want us to pass any change orders because we didn't want to pass 10 if it's an estimate and we didn't want it increasing and decreasing. So that being said, now that we have that number nailed down, we are passing that. We are filing that CSR today. The deadline is today. It will be filed.

We had some people out of town, so we were asking about delay on two other deals, but we're all filing today.

(02:33:36):

You will see that change order processed, which we'll now agree. So in previous quarters we did. So part of the Construction Status Report submission includes your G702, which is the draw, as well as, sorry, the third-party inspector reports. Those third-party inspector reports we agree with. So the previous report showed a 67% completion, whereas our G702 was showing much higher than that because we didn't have the updated full construction amount listed. So as we process that change order, our numbers are aligned magically it's 67%. So that being said, we're turning a building in November, and we will continue turning buildings through the end of February to be complete.

Leo Vasquez (02:34:31):

Mr. Marchant, a question?

Kenny Marchant (02:34:33):

This pencils out at $318,000 per unit?

Melissa Fisher (02:34:39):

Full development cost? Yes.

Kenny Marchant (02:34:41):

And

Melissa Fisher (02:34:42):

208 hard cost.

Kenny Marchant (02:34:45):

And the development fee is deferred,

Melissa Fisher (02:34:48):

Correct?

Kenny Marchant (02:34:49):

Not that you won't receive it.

Melissa Fisher (02:34:51):

Well, yeah, completely, but we don't expect to receive any of it.

Kenny Marchant (02:34:57):

I don't understand this word salad of ownership over here, Garland Housing Finance Corporation?

Melissa Fisher (02:35:06):

Yes. They're the general partner.

Kenny Marchant (02:35:08):

The Garland Housing Endowment?

Melissa Fisher (02:35:10):

Correct. Same issue. If the local issuer is not issuer, local housing finance corp is not interested, you're able to go to another local HFC.

Kenny Marchant (02:35:25):

So, what I mean, if this isn't granted, what happens?

Melissa Fisher (02:35:30):

Ultimately? Big picture it wouldn't be affordable.

Kenny Marchant (02:35:35):

It just goes to private. It would just go,

Melissa Fisher (02:35:37):

Yeah. And right now it's a senior deal. A hundred percent at 60%.

Holland Harper (02:35:49):

Can you tell me your name again?

Melissa Fisher (02:35:50):

Melissa Fisher.

Holland Harper (02:35:52):

You were the developer and the builder,

Melissa Fisher (02:35:54):

Correct.

Holland Harper (02:35:56):

You had a deal before. How do you control your costs? You're a builder I went to your website. Seems like you have a lot of units.

Melissa Fisher (02:36:03):

We do 10,000.

Holland Harper (02:36:03):

Why do you have such escalation and costs in your project without controls?

Melissa Fisher (02:36:11):

Oh, I mean it's terrible. Nobody wants that. We had,

Holland Harper (02:36:14):

No, why do you do that? Why have you let this escalation in every discipline you've got happen? When you had the risk as a developer and as a GC.

Melissa Fisher (02:36:25):

It's not ideal. I didn't do it. I am trying to deal with it to make sure we put the units on the ground. But I mean, it's the same story that you've heard for the last two years. It's timing delays, its material escalation, its labor, it's supply chain.

Holland Harper (02:36:46):

Do you not bond your subs? Do you not have firm fixed pricing with your subcontractors?

Melissa Fisher (02:36:52):

We are at the mercy of who you can sign up for the deals. I mean, I would love that if we were a market rate multifamily developer contractor, I would have everyone bond everything.

Kenny Marchant (02:37:09):

But basically since it's going to be bonded out. You're going to sell the bonds and we basically grant you the ability to put the debt on because you get the credits, you really don't need to control the cost.

Melissa Fisher (02:37:28):

Well, if costs were where they were, we would be collecting fees, we would be being paid for our time and our effort. I mean we're essentially not being paid. So of course I would,

Kenny Marchant (02:37:42):

Soft costs. You're not into soft costs?

Melissa Fisher (02:37:44):

No sir.

Kenny Marchant (02:37:45):

Okay.

Melissa Fisher (02:37:46):

No sir. Contractor fees. Developer fees. Yes.

Kenny Marchant (02:37:50):

Those fees went from 9 to 10.1 then are going to be deferred.

Melissa Fisher (02:37:54):

Correct.

Kenny Marchant (02:37:57):

And I'm sorry, Mr. Chairman, one more question.

Leo Vasquez (02:38:01):

Please go ahead.

Kenny Marchant (02:38:03):

How much of this word salad of ownership, how much fees do they get for lending their support for this?

Melissa Fisher (02:38:14):

Are you referring to the housing finance corp?

Kenny Marchant (02:38:17):

Yeah, I'm looking through them. It's interesting.

Melissa Fisher (02:38:22):

Yeah.

Kenny Marchant (02:38:22):

You have to pay them fees.

Melissa Fisher (02:38:23):

Unfortunately, yeah.

Kenny Marchant (02:38:24):

To put their stamp on, right?

Melissa Fisher (02:38:26):

Correct.

Kenny Marchant (02:38:27):

The tax is it, it's not property tax, is it?

Melissa Fisher (02:38:33):

It is.

Kenny Marchant (02:38:34):

Yes. So we see,

Melissa Fisher (02:38:35):

It is. So yes. To answer your question, the HFC usually receives an annual for this 4% deal. They would normally get, they're not the issuer, so they don't get the compliance fee.

Wallace Reed (02:38:49):

No, but your question exactly, they get about 25% of the deal. Wallace Reed, Sonoma Housing Advisors. So fee, their portion of this is about 25% of the developer fee. Any cash fee that was,

Kenny Marchant (02:39:03):

So, they are taking it deferred?

Melissa Fisher (02:39:04):

Yes. They won't be receiving anything out of this.

Kenny Marchant (02:39:08):

Bobby, this is what you're telling me that it's going to get fixed? You're hoping?

Bobby Wilkinson (02:39:13):

I expect there to be legislation that would limit HFCs to their geographical boundaries perhaps in the future.

Wallace Reed (02:39:22):

A point of clarification as well. In most of our deals where we have an HFC partner, our whole process is a capacity building with them. Even though we're deferring our fee, we have paid them out. It may not be the full 25%, but they have been paid developer fee out of our pocket. So it's not the nature of the purpose of that was for capacity building. And just in general with that. So it's not like they're deferring, and they've made nothing on the deal.

Melissa Fisher (02:39:55):

Yes. And to that point, ordinarily at closing you're paid a bit of your developer fee. It just depends on your investor how much that is. We ordinarily give that to the HFC to pay them upfront so that they get today funds versus pushing it out to completion or conversion.

Leo Vasquez (02:40:18):

Yeah. Ms. Farias, you have question?

Anna Farias (02:40:20):

Yes, I'm looking at exhibit B and it goes, the original cost schedule was $50 million. Supplemental 84, percentage of increase is 111. Now I will be the first,

Leo Vasquez (02:40:37):

No, 67 increase.

Anna Farias (02:40:39):

Okay. I will be the first person to admit that I have never understood the IRS, but when I look at exhibit B, I'm like, what are we actually voting on? Because I hear you and I heard the previous one saying, yes, we have this huge amounts of developer fees, but we're not really going to get 'em and blah, blah, blah, blah, blah, blah, blah. But the fact remains, we vote yes. And then the question is what did you really vote on? I mean, if somebody takes the whole package, they say, yeah, you did vote on this. I can't keep $10 billion, $10 million.

(02:41:18):

If I'm a lawyer, which I was for many years, I would say, hey, they voted on this. It doesn't matter what you promised them. They approved this; you can keep it. But anyway, there just comes a point where you are completely confused by the numbers and then you give up, which I don't want to give up. Because as a Board member, if something goes wrong, they'll come to us. And that's a confession. I rely on the experts. There are bonds and builders that know, but still this playing around with this number salad. It's very, very dangerous. I was in the federal government for 25 years. This is very dangerous, but when inspector generals come at you. They don't care who recommended to you. They said you were the board member. You voted on this. So as I said, I do not understand the IRS. I don't like the IRS.

Melissa Fisher (02:42:19):

On the record,

Holland Harper (02:42:19):

So, Mrs. Fisher, you said you did not update your G702 and 703, which is your schedule to complete, which is your draw until just recently. Is that correct? So all this time that you had, let me finish my statement. All this time, you're building this project and you have not updated your cost to complete until when Ms. Morales? Just recently. So we're just rolling. We're spending money, we're enjoying it. Oh, now we got to look at the accounting and we've overspent. Is that what you're telling this board?

Melissa Fisher (02:42:56):

Well, we did not update the draw form, the lenders, the investors, our accounting team, we knew how much we were spending. We've incurred $36 million to date, which is about 67%. So it's not like we were hiding the ball at all. We believed everyone understood where we were. I mean, we know that all of our interested parties knew exactly where we were, where we expected to be, where we were hoping to be.

As far as our CSRs. That's why we always, everyone is required to submit any kind of third-party reports and all of those third-party reports have said they've got, as today as an example, it says only 67%, which is exactly where we are. I mean, I guess my point is to restate the inspection reports, were clearly saying it's going to cost a lot more than what the G702 is saying and but,

Holland Harper (02:44:00):

The G702 is a function of your cost control as the builder and as the developer to manage your cost. And now we're getting to the point here at the end to say, hey, we've completely blown our costs. We didn't throw up a red flag earlier that we're blowing through our schedule and now we want this. And magically it turns out to be $55 million on the nose at the end, and we have playgrounds in the middle of it, which are not going to be on the project.

Melissa Fisher (02:44:20):

There are no playgrounds in a senior,

Holland Harper (02:44:22):

But the playground is in your cost to complete.

Melissa Fisher (02:44:25):

Well,

Wallace Reed (02:44:25):

So the G702 is just a function.

Holland Harper (02:44:27):

I know exactly what a G702 is, sir.

Wallace Reed (02:44:29):

No, but just it's in general. That's just a blanket. It's just a,

Holland Harper (02:44:33):

I know exactly what a cost to complete schedule is. I do it every day. Your cost to complete does not match your budget and it doesn't match, and you're the developer and the GC. You're not managing your work. Right? I don't understand why you're not managing the work on the cost. Tell me why you're not doing that?

Melissa Fisher (02:44:51):

Well, I believe we are and for you to suggest that just because the G702 draw form, that's not our budget. That is not the control form.

Holland Harper (02:44:59):

Let me ask what you did in the very beginning, right? So you told us it was going to cost $50 million. Now it's $84 million. You've been running on the $50 million the entire time until today.

Melissa Fisher (02:45:10):

No, we haven't. The draw form was not updated until last month. That doesn't mean that we're running at the original contract amount. I mean, we have software, we have budgeting systems. I mean, you're just referring to the G70- form, which I understand, but that's just the draw form. It's just paperwork.

Holland Harper (02:45:32):

Okay.

Melissa Fisher (02:45:32):

And I'm trying to explain that the investors and the lenders and everyone was understanding of where the budget was going, how much we had incurred. We were doing the same, trying to rebid all the work, trying to get our costs down because our subs would come to us with change orders. We'd say, okay, can we let this one go? Can we find someone else to do the work for less? Are they taking advantage of us? I mean, it's a process and we are continuously trying to bid the work down. As you are. I'm sure too. I mean, if this were happening to you, wouldn't you be working in the background trying to rebid your project? If people were showing you ridiculous numbers. Which you're seeing today from your perspective. We were seeing the same thing, which is why we were continuously working, which is why it wasn't finalized until September. We weren't ready to accept the numbers that we were getting, so we continued to work to push those numbers down, but respectfully, we weren't just working on the 50 with blinders.

Leo Vasquez (02:46:40):

Mr. Marchant?

Kenny Marchant (02:46:41):

How many different units are you managing now? In total?

Melissa Fisher (02:46:45):

We've developed 10,000.

Kenny Marchant (02:46:48):

Now? How many do you have your fingerprints on in construction right now?

Melissa Fisher (02:46:52):

Oh, right now, I'm sorry, about 1500.

Kenny Marchant (02:46:55):

About 1500 in there. How many different locations?

Melissa Fisher (02:46:59):

Two in Austin, one in Louisiana, one in Fort Worth, one in Rowlett.

Kenny Marchant (02:47:06):

Okay, so this is a question for staff. So we're put as the board, put in a position of either approving this, which will then they'll get their extensions, and we'll prove this, and then they'll put these units into use 60%, a hundred percent, 60% right?

Melissa Fisher (02:47:31):

Correct.

Kenny Marchant (02:47:32):

And what's the hundred percent, what would be the market value? What would be the fair market value of a unit?

Melissa Fisher (02:47:39):

In Fort Worth?

Kenny Marchant (02:47:40):

No, in this project?

Wallace Reed (02:47:44):

Are you asking what the area median income is?

Melissa Fisher (02:47:46):

No market rate.

Kenny Marchant (02:47:47):

What you're going to charge for a market rate on this project? So I know it's percentage.

Wallace Reed (02:47:53):

Oh yeah. I mean Fort Worth is about a $2 to $2.50 market in terms of rent. So just in general about $1,600 to $2,000, like $1,600 to $2,000 a unit a month.

Kenny Marchant (02:48:06):

Okay. So if you go private, you don't get this, you still have tax exempt, you're not going to pay property tax, right?

Wallace Reed (02:48:16):

I guess. Yeah, that would be true.

Kenny Marchant (02:48:17):

So, they're going to have a, not on the tax roll project there that they're going to charge 1600 to 2000 market rate. Or we can give them the go ahead and they can put these units into a hundred percent, 60 rate, if we approve this. That's what I'm trying to figure out is how consequential our yes or no or is on this.

Bobby Wilkinson (02:48:49):

Are they a hundred percent 60% AMIs? Is that? Okay. Can they just flip private? I don't think so.

Wallace Reed (02:49:02):

This isn't a 50% test issue. So if you don't qualify for the 50% test, all the credits that get generated from this, these are federal 4% credits, they don't get generated. So at that point, it ultimately has to flip. Any money that was advanced by the investor would have to be replaced with private. So this is why it's so important that the $5 million gets us past the 50% test. Yes, the cost did go up, but a majority of that, just like the previous is the floating rate construction rate that happened. Interest rate costs are out the door and yes, developer fee went up, but I can tell you 100% of the developer fee and a hundred percent of the general contractor fee. Just to continue to answer your question is the G702 did not continue to go up, but money still flowed into the project from, not from the partnership level, but from the ownership level. Work has continued in place, past what the lender and investor have put into the deal. So, what we're asking for is just to look, if it doesn't hit $55 million for construction, we're somewhere in the middle there, but to be safe to make sure that we make the 50% test to make sure that the credits are generated to keep this affordable. That is what the ask is here today.

Leo Vasquez (02:50:23):

Let me ask, and this may be to staff as much as anybody, how often are the CSRs issued?

Melissa Fisher (02:50:34):

Quarterly.

Leo Vasquez (02:50:40):

Quarterly. And when is the project going to be completed?

Melissa Fisher (02:50:43):

By March of 2025.

Wallace Reed (02:50:49):

With a building rolling out in November. And we should expect occupancy shortly after that. Move ins.

Leo Vasquez (02:50:54):

What I'm getting at is wondering, do we have to say yes or no right now? I think that y'all are representing that hey, you're on top of the construction and it's going, we can get these numbers lined out in the inconsistencies. That once we get, so if we wait another couple meetings, but I guess if your official report isn't until January, beginning of January, right? Maybe that's if it was monthly or something.

Wallace Reed (02:51:31):

The urgency is the BRB deadline, which is October 18th. We're filing as a priority zero. We will be far complete far before the next lottery, which would happen, and the cost cert has to come out at some point as well. So that's the urgency.

Melissa Fisher (02:51:50):

We are just today voting to be considered. You guys are in complete control as the issuer. So, if at any point once Teresa sees the CSR that will be filed today, I mean if you all don't like it, you pull the application. Anytime up until we close, which would be in March.

Wallace Reed (02:52:12):

You have 180 days.

Melissa Fisher (02:52:12):

180 days. So you still have six months to change your minds if you don't like what you're seeing.

Kenny Marchant (02:52:20):

I just have a question about Rise. Is it Rise Development Partners?

Melissa Fisher (02:52:25):

It's Rise Residential Construction and,

Kenny Marchant (02:52:29):

Affiliated with Rise Development Partners?

Melissa Fisher (02:52:33):

No.

Kenny Marchant (02:52:33):

No. Okay.

Melissa Fisher (02:52:35):

But we have an RRC development but no partners.

Kenny Marchant (02:52:39):

Okay.

Bobby Wilkinson (02:52:43):

Teresa, the October 18th deadline, is that relevant the way we're doing?

Teresa Morales (02:52:49):

No. So the Department will not be participating in the bond lottery but will instead be managing its own set-aside. So the bond lottery is a thing, but because TDHCA has its own set-aside until August 15th, we do not have to participate. Instead, we can have an order based on our own system of how those projects will then get reserved.

To the comment about the priority zero. It kind of alludes to what I'd mentioned in my presentation with state law changing to allow supplemental projects to be this priority zero and be incentivized to float up to the top. The caveat there though is they have to come back within four years of when the original application was filed. This transaction is outside of the four years, so they will not be a priority zero or they don't qualify.

Wallace Reed (02:53:42):

Is it filing or is it closing?

Teresa Morales (02:53:44):

Filing.

Bobby Wilkinson (02:53:48):

So, if they wanted more time, they could table this for a month or two.

Teresa Morales (02:53:53):

They could,

Leo Vasquez (02:53:54):

Lemme again, the October 18th?

Teresa Morales (02:53:59):

Is irrelevant.

Leo Vasquez (02:54:00):

Doesn't actually apply to this particular project?

Teresa Morales (02:54:05):

Correct.

Holland Harper (02:54:05):

Are we just talking about 0.4% to get to the 50%? So 0.4% is what we're looking to get?

Teresa Morales (02:54:17):

Based on the numbers that they provided. That 50% test calculation is at 49.6. It is not uncommon for transactions to decrease that aggregate basis number in order to rise above the

50% and that could be done through reducing a GC fee or reducing developer fee in order to get above.

Leo Vasquez (02:54:46):

The 49.6 is with the additional $5 million?

Teresa Morales (02:54:49):

Without.

Leo Vasquez (02:54:50):

It's without?

Teresa Morales (02:54:51):

Correct.

Leo Vasquez (02:54:54):

I would feel much more comfortable getting some more reports down the road. I mean maybe the next quarter report and then if there is something where we'll staff, and I guess the developer will have a better confidence level as to where the numbers are ultimately panning out.

Cindy Conroy (02:55:16):

I just have a question. If you knew you were coming here today and you still opted to not have your report at least with you to say we're going to file this today,

Melissa Fisher (02:55:30):

I have it on my laptop. We're filing today.

Cindy Conroy (02:55:35):

But they have not seen it, right? Staff's not seen it?

Melissa Fisher (02:55:38):

No. It hasn't been filed.

Cindy Conroy (02:55:39):

So, if you know that you're going to be here coming to us today and you have this report on you, with you today, why didn't you give them the report yesterday or the day before? Because right now you're asking us to talk about things, but you have information that we don't or that the staff doesn't.

Melissa Fisher (02:55:58):

The information in that report they have as part of the application. So that G702 that we've been talking about.

Cindy Conroy (02:56:08):

That you're filing today?

Melissa Fisher (02:56:11):

Correct.

Holland Harper (02:56:12):

Is it the change order, we already have in here?

Melissa Fisher (02:56:15):

It's in your,

Cindy Conroy (02:56:15):

Okay.

Holland Harper (02:56:16):

Hasn't changed.

Cindy Conroy (02:56:17):

Oh well,

Holland Harper (02:56:17):

So, it's just going to be in a different form.

Cindy Conroy (02:56:19):

Okay.

Ajay Thomas (02:56:20):

I mean Mr. Chairman, I think from where I sit, I mean it's just a lack of clear communication. I mean staff is not comfortable. They don't feel like they have all the information they need to make a recommendation to the board. We're supposed to in essence make a recommendation with a lot of incomplete information and lots of moving pieces to this. I wouldn't be comfortable going over staff's neutral recommendation and I would want more time and I would be supportive of tabling.

Leo Vasquez (02:56:53):

Okay, the 18th isn't an issue. I think we're all very, we'd like to see updated information as we keep getting closer and then being able to readdress where this lands. It might not even have to come to us depending on how all your final numbers start rolling out. So it is probably best for the applicant to walk away with a table for a future meeting. Than any other alternative vote that I would imagine would occur right now. So would someone like to make a motion to table this to a future meeting?

Holland Harper (02:57:39):

I move the Board table inducement No. 25-005, regarding the application's submission for BRB possible receipt of state volume cap issuance of the supplemental bond application for Legacy Riverside Senior Living Community, all as described conditioned authorized in the board action request resolutions associated with this item.

Anna Farias (02:57:59):

Second.

Leo Vasquez (02:58:01):

A motion made by Mr. Harper to table, seconded by Ms. Farias. All those in favor say aye.

Board Members (02:58:08):

Aye.

Leo Vasquez (02:58:08):

Any opposed? Hearing none. We'll see you down the road.

Melissa Fisher (02:58:12):

Thank you.

Leo Vasquez (02:58:14):

Okay. Is it my understanding that item 19 has been pulled from the agenda? Okay. Just so we don't have a lot of the complaints, do we want to take a couple minutes, or do you want to keep plowing through?

Kenny Marchant (02:58:28):

Keep going.

Leo Vasquez (02:58:29):

Keep plowing through. If anyone needs to leave you can. Or go back and forth. I know one of you has a flight. So yeah, let's, Okay, 19, Table. 20, Moving on Presentation, discussion, and possible action regarding a waiver of 10 TAC §11.9(b)(2)(A) and ownership structure change for Estacado Estates. Mr. Banuelos.

Rosalio Banuelos (02:58:56):

Good afternoon, Rosalio Banuelos, Director of Asset Management. Estacado Estates received a 9% housing tax credit award in 2022 and the reallocation of tax credits under force majeure in 2023 for the new construction of 46 units of elderly housing in Amarillo, Randall County. The application for the development received two points because the development was structured to include a historically underutilized business or HUB and the ownership structure that would have some combination of ownership interest in the general partner of the applicant, cash flow from operations, and developer fee. The HUB is also required to materially participate in the operation of the development throughout the compliance period. The applicant is now requesting approval for changes to the ownership structure of the development, which requires a waiver of the provision that specifies that the HUB is required to have an ownership interest in the general partner. The applicant is seeking to revise the ownership structure by replacing the general partner at the time of application with the new entity of which the sole member is the Panhandle Regional Housing Finance Corporation and moving the current general partner to the new role of special limited partner.

(03:00:02):

The proposed new general partner will also be a co-developer in the transaction. Additionally, title to the fee interest in the development site will be transferred to the Panhandle Regional Housing Finance Corporation who will then enter into a ground lease with the applicant. The applicant explained that due to construction costs increases; increases in operating expenses, particularly payroll, insurance, and property taxes; increases in interest rates; and decreases in equity pricing, the development is not feasible without significant changes. The requested changes to the ownership structure along with the ground lease structure will improve the financial feasibility of the development by providing a property tax exemption. However, the change to the ownership structure would result in the HUB no longer meeting the requirements for the two points awarded application because it will no longer be in the ownership structure of the general partner. Therefore, the applicant requests a waiver of this specific requirement and to allow the development to continue to qualify for the points with the HUB in the ownership structure of the special limited partner. The HUB would still meet all of the requirements in the QAP, and this revised ownership requirement would be codified in the LURA for the development. It should also be noted that on June 25th, 2024, the city of Amarillo passed the resolution in which it acknowledges the change of the development to tax exempt and reaffirms its support for the development. This resolution is in the board packet for this item. Staff recommends approval of the waiver request and the changes to the ownership structure and I'm available for questions.

Leo Vasquez (03:01:23):

Okay, so this is pretty much standard moving the, revising the structure, using the special limited partner and the city has explicitly approved the change to the tax exempt?

Rosalio Banuelos (03:01:36):

That is correct.

Leo Vasquez (03:01:38):

Okay. Does any Board member have questions on this item? If not, does anyone want to speak against this item? Okay. Alright, entertain the motion on item 20 of the agenda.

Anna Farias (03:01:50):

Mr. Chairman, I'm move the Board approve the proposed requested waiver and change to the ownership structure for Estacado Estates all as described and conditioned in the board action request resolution and associated documents on this item.

Holland Harper (03:02:07):

Second.

Leo Vasquez (03:02:08):

Motion made by Ms. Farias, seconded by Mr. Harper. All those in favor say aye.

Board Members (03:02:12):

Aye.

Leo Vasquez (03:02:13):

Any opposed? Hearing none. Motion carries.

Item 21. Presentation, discussion, and possible action regarding an increase to the Housing Tax Credit amount for Bridge at Canyon View. Mr. Banuelos.

Rosalio Banuelos (03:02:25):

Bridge at Canyon View received a 4% housing tax credit award in 2019 for new construction of 215 units in Austin. On November 12th, 2019, a determination notice was issued with an approved annual tax credit amount of $1,620,343. The buildings and development placed in service within the last year and the cost certification documentation is currently under review by the Department. The cost certification documentation requests an annual tax credit award of $3,021,497, which is an increase of $1,401,154 or 86.47% from the amount reflected in the determination notice. Board approval is required because the requested tax rated amount exceeds 120% of the amount reflected in the determination notice. The representative for the development explained that the development incurred increased cost during construction and construction delays, which added to the cost increases. A comparison of the development cost from the time of application in 2019 to the cost certification indicates that total development costs increased approximately $19.7 million or 42.84% from a little under $46 million to over $65 million.

(03:03:38):

The owner explained that direct construction costs were underestimated at the time of application as the applicant did not have actual construction bids at that time. Additionally, there were several change orders and material price escalations. There was also a new soil stabilization redesign that increased the design costs and delayed construction, additional insulation added to the material and labor cost, and cost also increased due to non-prototype buildings mandated by the city of Austin. There was also a need for mitigation for a water infiltration issue in the garages. General conditions and overhead cost increased due to the length schedule causing construction delays and construction delays also increased the construction interest. Developer fee increased 24% but did not go all the way up to the 50% allowed under the rules. In addition to the changes in costs, the credit calculation at application was based on an applicable percentage of 3.42, but at cost certification the percentage was adjusted to 4% due to the enactment of the Consolidated Appropriations Act of 2021 and due to a supplemental bond that was funded in 2023 through a local issuer, without this change to the applicable tax rate percentage, the increase to the annual tax rate amount would have been 60.7%.

(03:04:55):

Staff's analysis of the transaction at cost certification has concluded that the development supports the requested annual tax credit amount of $3,021,497 and staff recommends approval of the increase in the tax credit award. However, the owner will be required to submit the tax-exempt bond credit, increase request fee as required in the QAP and submit all required pending documentation for the cost certification prior to the issuance of 8609s. That concludes my presentation. I'm available for comments.

Leo Vasquez (03:05:23):

This was originally a 2019 deal?

Rosalio Banuelos (03:05:25):

Yes.

Leo Vasquez (03:05:34):

And at this point, again it's all been it's complete, it's we're just doing the final cost numbers?

Rosalio Banuelos (03:05:40):

Correct. This is all based on final numbers. The development is complete. It's operational.

Leo Vasquez (03:05:47):

Okay, so it's. It's a done deal other than the paperwork?

Rosalio Banuelos (03:05:51):

Correct.

Leo Vasquez (03:05:53):

Okay. Do any board members have questions on this? Seeing, and staff recommends approval?

Rosalio Banuelos (03:06:03):

Yes.

Leo Vasquez (03:06:03):

Okay, so I'll entertain a motion on item 21 of the agenda.

Ajay Thomas (03:06:10):

Mr. Chairman, I move the Board approve the requested 4% housing tax credit increase for Bridge at Canyon View, all as described, authorized, and conditioned in the board action request resolution and associated documents on this item.

Leo Vasquez (03:06:22):

Motion made by Mr. Thomas. Is there a second?

Cindy Conroy (03:06:25):

Second.

Leo Vasquez (03:06:26):

Second by Ms. Conroy. All those in favor say aye.

Board Members (03:06:30):

Aye.

Leo Vasquez (03:06:30):

Any opposed? Hearing none. Motion carries. Thanks.

Item 22, Presentation, discussion, and possible action on regarding approval of a HOME-ARP Allocation Plan Second Amendment to add reallocated funds to the nonprofit capacity building/operating cost assistance, non-congregate shelter activities and administration activities to be released for public comment. Ms. Cantu.

Naomi Cantu (03:07:04):

Thank you, Naomi Cantu, HOME-ARP Director. In 2021, TDHCA was allocated about $132 million for the HOME American Rescue Plan, also known as HOME-ARP. HOME-ARP’s target population is persons experiencing homelessness, at risk of homelessness and other at-risk populations. Our division budgeted funds into three program activities: non-congregate shelter development, rental housing development, and nonprofit capacity building and operating funds. Since programming the HOME-ARP Division awarded all of its rental development funds and awarded or reallocated a majority of its nonprofit capacity building and operating funds. We also have an open invitation to apply for non-congregate shelter. There have been two federal adjustments made to the original HOME-ARP allocation. HUD notified us in 2023 that our funds were reduced by about $3.8 million due to their allocation error. In August 2024. HUD reallocated approximately $4.3 million to TDHCA from places in Texas that did not program their HOME-ARP funds.

(03:08:18):

This is Odessa, Bryan, and Pasadena. I'm before you today to request that the reallocated funds be programmed into nonprofit capacity building operating assistance, non-congregate shelter development, and TDHCA administration. The HOME-ARP team anticipates continuing with the strategy of releasing capacity building operating funds to support one or more nonprofits that plan to undertake non-congregate shelter. With a preference for Odessa, Bryan, and Pasadena as required by HUD. By also adding approximately $3 million in reallocated funds into our open non-congregate shelter invitation to apply, it would make approximately $9.5 million available for a second or additional shelters if the maximum award is requested by the first applicant. Finally, the allowed percentage for administration on the $4.3 million reallocated funds would offset part of the reduction of 2023. The attached second amendment reflects the

HUD approved HOME-ARP plan and first amendment with track changes reflecting the proposed second amendment language.

(03:09:34):

There's one change I'm going to request via the speaking notes. On page 49 of the draft second amendment, we have stated that the nonprofit capacity building operating funds would be awarded to an organization that would expend 40% of the funds by month 24 of the contract and 100% of the funds by month 48. We request to change this to award an organization that could expend 40% of the funds by month 18 of the contract and 100% of the funds by month 36. This change is requested so we can support the organization throughout the application and construction of the non-congregate shelter and finish assistance with the anticipated completion of the shelter. Upon approval by the board, staff would publish the amendment for a comment for 15 days. If no changes will be made as a result of public comment, we ask the authority for the executive director to proceed with submission to HUD as presented here and with the change requested in speaking notes. HUD has 45 days for review.

I'm here for any questions.

Leo Vasquez (03:10:47):

Okay, so they made a mistake on $3.8 million?

Naomi Cantu (03:10:52):

They did,

Leo Vasquez (03:10:53):

But that was your HUD, Ms. Farias's HUD friends. But net we were actually getting more allocated with all these different programs?

Naomi Cantu (03:11:03):

That's correct. The net change is about 5.08 thousand.

Leo Vasquez (03:11:07):

Okay, so that's positive. That's good. Okay. And we're not messing up, I mean pulling back funds from anyone that we had awarded them to of that 3.8?

Naomi Cantu (03:11:21):

No.

Leo Vasquez (03:11:21):

Yep. Okay. Okay, great. Does anyone have questions for Ms. Cantu? Hearing none, I'll entertain the motion on item 22 of the agenda.

Holland Harper (03:11:38):

I move the Board, approve the proposed second amendment to the HOME-ARP allocation plan, all as described, authorized, and conditioned in the board action request resolution and associated documents on this item.

Anna Farias (03:11:48):

Second.

Holland Harper (03:11:53):

Subject to the small modification.

Leo Vasquez (03:11:55):

Thank you.

Anna Farias (03:11:57):

Second.

Leo Vasquez (03:11:58):

Motion made by Mr. Harper. Seconded, by, Ms. Farias. All those in favor say aye.

Board Members (03:12:03):

Aye.

Leo Vasquez (03:12:04):

Any opposed? Hearing none. Motion carries. Thanks Naomi. Item 23 of the agenda, presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Eban Village I and Eban Village II.

Sascha Stremler (03:12:22):

Yes,

Leo Vasquez (03:12:23):

Ms. Stremler, let's have a concise presentation here.

Sascha Stremler (03:12:26):

Good afternoon. Sascha Stremler here in my capacity is Assistant General Counsel to present item 23 regarding agreed final orders for Eban Village I and Eban Village II. The referred property is owned by HHF, Eban Village 2021, which is controlled by Hope Housing Foundation. Alvin Johnson is the president of Hope Housing Foundation and is the primary contact with TDHCA. Rampart Management was the prior property manager, but the owner hired Integrity Rise Management after they were referred for administrative penalty. The property is a two-phase apartment complex composed of 110 units in Eban Village I and 220 units in Eban Village II. They're located in Dallas. 165 of these units are restricted by the housing tax credit program. Eban Village I is subject to a 1997 LURA and Village II is subject to a 2002 LURA. Ownership purchased the property in 2013.

(03:13:28):

As you know, the Department performs file monitoring reviews to ensure that units are rented to low-income households and that the program is operating in a compliant manner. The Department also performs N-SPIRE inspections. Both types of review require owners to submit corrective documentation within 90 days. Hope

Housing Foundation controls four actively monitored properties, all of which have a history of administrative penalty referrals. Hope Housing Foundation has three prior agreed final orders. There are two from 2017 which the owner complied with. There was a 2018 agreed final order for Ridge at Trinity. The owner violated that order and ended up paying the full penalty. All of the properties in their portfolio have been referred at some time. On October 19th, 2023, TDHCA conducted an N-SPIRE inspection of Eban I and identified events of non-compliance. On January 26th, 2024, TDHCA conducted a file monitoring review of Eban II and found identified events of non-compliance.

(03:14:30):

Both were referred to enforcement committee for an administrative penalty on June 10th, 2024. TDHCA's Compliance Division identified the following findings of non-compliance that were not timely corrected and are under consideration today for an administrative penalty. For Eban I there were N-SPIRE findings of non-compliance. Those were resolved after referral. For Eban II there was a failure to implement updated utility allowances by January 1st, 2024. There was a failure to provide evidence that special needs housing is being provided. The LURA requires that at least 22 units be set-aside for persons with physical or mental disabilities. No households were designated as special needs units. Then there were two instances where programmed units were not leased to low-income households. None of the items for Eban II have been resolved, as of this time. Administrative penalties are authorized by statute at Texas Government Code Section 2306.041. The process is defined by rule at TAC Chapter two, sub chapter C.

(03:15:34):

To assess a penalty, TDHCA must first offer an informal conference. The enforcement committee held an informal conference with owner on August 29th, 2024, and analyzed the required statutory factors for determining an appropriate administrative penalty. Those factors are discussed in further detail in your board materials. The enforcement committee determined that a high administrative penalty was appropriate given the owner's prior violation of a past agreed final orders and the committee also recommended to allow a portion to be forgivable to incentivize corrections. The enforcement committee therefore recommended an administrative penalty of $23,125, which is the maximum penalty for Eban Village I and Eban Village II with a 50% forgivable portion to be prorated and forgiven as follows.

First, the owner must submit payment of a 50% portion of that penalty to TDHCA on or before November 12th, 2024. Second, the owner must correct all file monitoring violations as indicated in the agreed final order and submit full documentation of the corrections to TDHCA on or before November 12th, 2024. Third, if the owner complies with all these requirements and addresses all violations and the remaining 50% would be forgiven. If the owner violates any provision of the agreed final order, the full administrative penalty will become immediately due and payable. I'm available for any questions.

Leo Vasquez (03:16:59):

So, this has been, they have a history of non-compliance or issues?

Sascha Stremler (03:17:07):

Correct.

Leo Vasquez (03:17:09):

And we've come up to an agreed $23,000?

Sascha Stremler (03:17:13):

$23,125, which is if you're looking at the calculations, that's a maximum penalty available.

Leo Vasquez (03:17:19):

Okay. But half is, it's going to depend on whether they comply.

Sascha Stremler (03:17:23):

Right, comply.

Leo Vasquez (03:17:24):

Okay, good to see actual real penalties being assessed.

Kenny Marchant (03:17:32):

May I just inquire?

Leo Vasquez (03:17:33):

Please.

Kenny Marchant (03:17:34):

It says I'm just not going to do it. It's cheaper. It's just cheaper for me to pay the penalty. Does he get, what happens to him if he just says, hey here's, I'm paying the penalty, I'm not making these changes. Does the cost of change far exceeds the penalty.

Sascha Stremler (03:17:57):

All they're required to do is pay the maximum penalty. They don't have enough properties in their portfolio to trigger debarment. I mean that could be something. Failure to comply with agreed final order could be grounds for debarment but that would be at a later time.

Kenny Marchant (03:18:14):

But if he decided to do everything you said costs way more than the penalty, I'm just going to pay the penalty and not do it. Can you do that? Or they or I don’t know.

Beau Eccles (03:18:29):

Well upon reinspection they're still going to be there and then they're going to get penalized again.

Sascha Stremler (03:18:34):

It would come back again. Yeah,

Beau Eccles (03:18:39):

It's never going to pay off to just say, oh never mind because you haven't fixed anything.

Kenny Marchant (03:18:44):

Gotcha. Okay. So he would be set for another fine, et cetera and debarment?

Sascha Stremler (03:18:51):

Right.

Kenny Marchant (03:18:51):

Okay, thanks.

Leo Vasquez (03:18:56):

Okay, further questions? If not, I'll return a motion. A motion on item 23 of the agenda.

Anna Farias (03:19:04):

Mr. Chairman, I move the Board, approve the agreed final order assessing an administered penalty for non-compliance at Eban Village I and Eban Village II all as described authorized and conditioned in the board action request resolution and associated documents on this item.

Holland Harper (03:19:25):

Second.

Leo Vasquez (03:19:26):

Motion made by Ms. Farias, seconded by Mr. Harper. All those in favor say aye.

Board Members (03:19:30):

Aye.

Leo Vasquez (03:19:31):

Any opposed? Hearing none. Motion carries.

Moving on to item 24, Presentation, discussion, and possible action on recommendation to debar multiple parties for conduct relating to Plainview II Triplex. Ms. Stremler.

Sascha Stremler (03:19:47):

Sascha Stremler, Assistant General Counsel. Plainview II Triplex consists of three scattered site four-bedroom single family homes that are located in Plainview, Hale County, Texas, which are restricted at 50% of AMI. The property was subject to a 1994 LURA in exchange for an interest-free loan. That loan matured on September 1st, 2024, and has been paid in full and the LURA expired on August 19th, 2024. The property is owned by Hale Center Housing Authority, which purchased a property from a prior owner in 2014. Cindy Carthel is the housing authority's executive director and TDHCA's primary contact. The housing authority's board is not active and until recently, Ms. Carthel was the only employee. For purposes of debarment, Hale Center Housing Authority and Cindy Carthel are responsible parties in control. The definitions are available, Exhibit one for your reference. The responsible parties signed agreed final orders in 2017, 2020, and 2023 for reporting non-compliance and file monitoring non-compliance.

(03:20:52):

The responsible parties violated all three agreed final orders and paid required administrative penalties. Before you today is a final order of debarment for a term of 10 years for responsible parties in control, Hale Center Housing Authority, and Cindy Carthel. The responsible parties are not appealing the debarment. There are two grounds for debarment consideration before you, both of which are discretionary under 10 TAC section 2.40(A). The first is failure to comply with an agreed final order, under 10 TAC 2.401(A)(6). The Department may debar a responsible party for failing to correct evidence of non-compliance as required by an order that becomes effective after April 1st, 2021, and or failing to pay an administrative fee as required by such order within six months of a demand being issued by the Department. On February 2nd, 2023. Cindy Carthel signed an agreed final order on behalf of Hale Center Housing Authority agreeing to correct non-compliance from a March 1st, 2022, file monitoring review.

(03:21:54):

Hale Center Housing Authority violated the order and TDHCA issued a collection letter on April 28th, 2023, demanding payment of the administrative penalty and corrective action within 30 days. The administrative penalty was paid but one violation remains unresolved relating to a household in Unit 306 which exceeds the income limit.

The second basis is having unresolved non-compliance at LURA expiration. Under 10 TAC 2.401(A)(11), the Department may debar a responsible party for controlling a multifamily development and failing to correct events of non-compliance before the expiration of a LURA. The LURA expired on August 19th, 2024, and there is unresolved non-compliance relating to the household and Unit 306 which exceeds the income limit. There is no required minimum or maximum debarment term.

The enforcement committee reached its recommendation based on the material factors outlined under 10 TAC 2.401(J), which include repeated occurrences, seriousness of underlying issues and presence or absence of corrective action, which are detailed in the bar. The enforcement committee recommends approval of the order of debarment of responsible parties for 10 years. I'm happy to answer any questions.

Anna Farias (03:23:07):

I have a very quick question. Just said there's no board, no board of directors. Is this the kind where a mayor appoints board of commissioners?

Sascha Stremler (03:23:17):

I am not sure, but I know that it's a very small housing authority.

Anna Farias (03:23:21):

Since they are going to be debarred for so long, are they going to place that notice on their bulletin board? I know at the National Labor Relations Board, if we ruled against a corporation or the union by law, they had to post that notice for 15 days.

Well anyhow who's running it? You don't have a board. They're not doing their job.

Sascha Stremler (03:23:45):

It's just the executive director Cindy Carthel, who's also being debarred.

Leo Vasquez (03:23:50):

Okay, that's fine. And again, it's a tiny unit. It is not even really a development.

Holland Harper (03:24:01):

I'm ready when you are.

Leo Vasquez (03:24:02):

Okay. Yeah, let's. Mr. Harper, you want to make a motion?

Holland Harper (03:24:06):

I move the Board, approve the final order for debarment for a term of 10 years for Hale Center Housing Authority and Cindy Carthel, all is described, authorized, and conditioned in the board action request resolution and associated documents on this item.

Anna Farias (03:24:19):

Second.

Leo Vasquez (03:24:20):

Motion made by Mr. Harper, seconded by Ms. Farias. All those in favor say aye.

Board Members (03:24:23):

Aye.

Leo Vasquez (03:24:24):

Any opposed? Hearing none. Motion carries. Thank you Sascha.

Item 25 of the agenda presentation, discussion, and possible action on Program Year 2024 Emergency Solutions Grants Program Awards. Ms. Falcon?

Rosy Falcon (03:24:43):

Thank you. Good afternoon. Board members, Rosy Falcon, Manager of Homeless Programs. I'll be presenting the program year 2024 award recommendations for the Emergency Solutions Grants program or ESG. The ESG program utilizes federal funding from HUD to assist people experiencing or at risk of homelessness quickly regain housing stability through street outreach, emergency shelter, rapid rehousing homeless prevention activities. This item includes staff recommendations resulting from both continuing awards and the annual competition for the regular allocation of ESG funds. The total awards recommended today are just under $9.3 million and include the entirety of the ESG allocation after 4.5% of the funds are set-aside for the administration of the grant by the Department. The allocated funds are distributed geographically into the 11 continuum of care regions or COCs within the state. ESG rules allow a process for long-term high-performing sub-recipients of ESG to receive a continuing award and also establish the requirements for the competition for the remaining of the competitive funds.

(03:25:55):

The results of the continuing awards and of the competition are included in your board book as attachments to this item. Existing sub-recipients were evaluated for eligibility for a continuing award and notified of the results. Competitive awardees were also scored and issued a random number to be utilized in the event of a tiebreaker to determine the ranking of applications. During this application cycle the tiebreaker number was used within only the San Antonio COC. However, both applicants were funded as the lower tiebreaker number applicant was eligible to receive funding during the statewide competition.

All applicants under the competition were notified of their final score and given an opportunity to appeal the scoring decision. The Department did receive two appeals. Those appeals were denied. However, both applications were still funded for their full amount requested. The applicants did not submit an appeal to be heard by the Board. Of the applicants we're awarding have a condition and their awards related to their single audit. Should these applicants not meet the condition, funds will be redistributed to other ESG sub-recipients in accordance with ESG rules noted at 10 TAC Chapter Seven. A detail of the applications for both continuing and competitive awards are included as attachments to this item. That concludes my prepared remarks. I'm happy to answer any questions.

Leo Vasquez (03:27:23):

Great. So another $9 million plus that we're getting out there distributed.

Rosy Falcon (03:27:29):

Right.

Leo Vasquez (03:27:30):

Excellent. Do any board members have questions on this item? If not, I'll entertain the motion on item 25 of the agenda,

Holland Harper (03:27:42):

I move the Board approve the recommended ESG program funding awards, all as described authorized and conditioned in the board action request resolution and associated documents on this item.

Leo Vasquez (03:27:51):

Motion made by Mr. Harper, seconded by Mr. Marchant. All those in favor say aye.

Board Members (03:27:55):

Aye.

Leo Vasquez (03:27:56):

Any opposed? Hearing none. Motion carries.

Item 26 of the agenda presentation, discussion, and possible action to ratify staff’s actions to accept and implement the Rapid Unsheltered Survivor Housing allocation under the ESG Program, and to ratify staff’s submission of an amendment to the State of Texas 2023 One Year Action Plan reflecting such action. Ms. Falcon.

Rosy Falcon (03:28:29):

Thank you. That's a lot. Rosy Falcon, Homeless Programs manager. This next item for your consideration is a new award the Department did receive for response to disaster recovery. So, there are several things we're asking that I'll be presenting on today.

First, on July 18th, HUD released a federal register notice announcing the creation of a new form of disaster relief that allocates special grants under the existing Emergency Solutions Grants program, which HUD has designated as the Rapid Unsheltered Survivor Housing Program or RUSH funds. The ESG RUSH allocations are funded by recaptured funds from the ESG and the Continuum of Care or COC programs, and are made available to states and or local governments to address the needs of individuals and families who are experiencing homelessness or at risk of experiencing homelessness, but who also reside in a declared disaster area whose needs are not otherwise addressed or fully met by existing disaster funds.

(03:29:31):

ESG RUSH funds may be used to address short-term disaster response needs as well as activities federally eligible under the annual ESG program including street outreach, emergency shelter, homeless prevention, rapid rehousing, and HMIS. The state has received an initial allocation of $1.8 million in response to Hurricane Beryl and other severe weather events in the state throughout this year. Although HUD waives the consultation requirements for the initial allocation of funding, HUD regulations still require the Department submit an amendment to the 2023 State of Texas One Year Action Plan or OYAP, within 30 days of HUD’s award notification, which was stated August 28th, 2024. Therefore, during the Board meeting of September 5th, the executive director notified the board that the required submission must be made prior to obtaining board approval. The OYAP amendment as, submitted timely to HUD is included as an attachment to this item as well. To expedite the release of funds into effective communities staff is to award ESG RUSH funds as new contracts to existing high performing ESG Subrecipients, which provide services within the affected areas.

(03:30:50):

Attachment A of this item indicates the affected areas by COC Region. As these funds are meant to address the immediate needs arising from a disaster and are governed by ESG regulations. Staff believes the most efficient and effective way to distribute these funds is awarding it to current ESG sub-recipients. In addition to this request, staff is also requesting a waiver of 10 TAC 7.3(A), which prohibits the use of ESG funds for new construction, renovation, rehabilitation, or conversion of a shelter or construction or rehabilitation of a dwelling unit. Although new construction is not permissible under federal regulation, renovation, rehabilitation, or conversion of a shelter is an allowable use of funds federally. This waiver will allow the use of ESG RUSH funds to rehabilitate emergency shelters which may be damaged by the disasters and maybe not fully covered by insurance or other disaster related funds. Lastly, the HUD notice includes the possibility of a second allocation of ESG RUSH funding. As these funds are meant to address immediate needs after a disaster. Staff is also requesting that the executive director and his designee have authority to accept future allocations of ESG RUSH and authorization to submit required amendments to the applicable State of Texas One Year Action Plan and that ends my prepared remarks, I'm happy to answer any questions.

Leo Vasquez (03:32:22):

Okay, great. So again, $1.8 million, $1.885 million?

Rosy Falcon (03:32:29):

That's correct.

Leo Vasquez (03:32:32):

Any questions, comments on this item? If not, I'll entertain the motion on item 26 of the agenda.

Anna Farias (03:32:40):

Mr. Chairman, I move the Board ratify the acceptance of the ESG RUSH award allocation and the submission of an amendment to the 2023 State of Texas Action Plan and approve the administration and award of the first allocation of ESG RUSH funding. All as described, authorized, and conditioned in the board action request resolutions and associated documents on this item.

Holland Harper (03:33:09):

Second.

Leo Vasquez (03:33:10):

Motion made by Ms. Farias, seconded by Mr. Harper. All those in favor say aye.

Holland Harper (03:33:14):

Aye.

Leo Vasquez (03:33:15):

Any opposed? Hearing none. Motion carries. Thank you. Item 27. Presentation, discussion, and possible action authorizing staff to register interest in, apply for, and accept additional Veterans Affairs Supportive Housing vouchers offered by the U.S. Department of Housing and Urban Development, and authorization to subsequently administer such awarded vouchers. Mr. Adams?

Andre Adams (03:33:39):

Yes sir. Good afternoon. Hi, my name is Andre Adams. I'm the program manager for the Section 8 program and today I want to go ahead and talk about item 27 for possible action for the Department to register, apply for, and accept additional VASH vouchers and if offered vouchers be able to administer as well.

On June 3rd of this year, the U.S. Department of Housing and Urban Development (HUD) released a notice PIH 2418, announcing available vouchers for approximately 7,800 VASH participants. With providing opportunity for public housing authorities to register for the interests and being able to provide assistance for these VASH vouchers for the program. These VASH vouchers require the Department of Veterans Affairs to ensure provisions, case management, and also local services along with the company of the housing authority to provide the housing assistance. Therefore, with the registration of the interests, we were required to have a letter of interest of support from the VAMCs, the medical centers.

(03:34:54):

We did receive two letters of interest applying for more VASH vouchers in the areas of Kerr County, Bandera, Medina, Fort Bend, and Galveston County. The registration of interest was submitted by HUD's deadline on August the 30th of this year for consideration of award. Prior to having the opportunity to seek

Board's approval, HUD will notify the Department once the VASH vouchers have been awarded. And the reason we were coming today, we were asking for authority, once we are offered vouchers, to be able to accept these vouchers for asking for authorization.

The impact of this has meant to the community and the veterans has been profound. We received various comments regarding the veterans and the community that these vouchers mean they are able to access stable housing, which is crucial to step forward rebuilding their lives. It also provides them a full sense of security and dignity, allow 'em to focus on other aspects of their well-being such as employment, education, and health, as well as job programs. For the community the assistance in veterans is a way of fostering a sense of unity and support. It demonstrates a commitment of taking care of those who have served the country, which can inspire others to contribute and get involved. Additionally, it helps reduce the homelessness for our veterans.

Overall, this collaboration has brought a positive change, offering hope and tangible support to our veterans, and strengthening the fabric of the community involvement. Through our collaboration we have successfully assisted 104 veterans by applying for just 20 vouchers over five years ago, and we're continuing to recycle the vouchers as veterans are becoming more sufficient. Therefore, staff is recommending that our Board accept this to apply for these vouchers and to accept the registration. That concludes my talking points. I'm available for any questions.

Leo Vasquez (03:37:12):

Great, thanks. So how many vouchers do you think we could possibly be awarded? How many additional?

Andre Adams (03:37:18):

It just depends on the VAMC. They basically will let us know after they do their assessment. Usually we usually get about 20 at a time. They try not to do any more than 20 only because they have to make sure they have enough services, caseworkers that provide that service for. So, it just depends.

Leo Vasquez (03:37:35):

Yeah. Well I mean every bit helps especially on this one.

Andre Adams (03:37:37):

Yeah, definitely.

Leo Vasquez (03:37:39):

So, any questions on this Mr. Harper? Do you want to make a motion?

Holland Harper (03:37:43):

I do. I move the Board ratify submission of registration of interest and approve the acceptance and the administration of any resulting VASH vouchers, all as described, authorized, and conditioned in the board action request resolution and associated documents on this item.

Kenny Marchant (03:37:59):

Second.

Leo Vasquez (03:38:01):

Motion made by Mr. Harper, seconded by Mr. Marchant. All those in favor say aye.

Board Members (03:38:05):

Aye.

Leo Vasquez (03:38:06):

Any opposed? Hearing none. Motion carries.

Andre Adams (03:38:08):

Thank you.

Leo Vasquez (03:38:08):

Thank you, Andre.

Item 28 of the agenda, presentation, discussion, and possible action to authorize the issuance of the 2025 HOME Investment Partnerships Program Single Family Persons with Disabilities Set-Aside Notice of Funding Availability and publication of the NOFA in the *Texas Register*. Mr. Landry,

Chad Landry (03:38:28):

Good afternoon, Chairman Vasquez and Board members, my name is Chad Landry and I'm the manager of Single-Family Programs. I am before you today to present item 28, which is the 2025 HOME

Program Persons with Disabilities NOFA. Funding for this NOFA is based on our annual HOME allocation from HUD for 2024 of just under $34 million. While these funds are technically 2024 in HUD's eyes, our NOFA is dated 2025 because that's the state fiscal year that we will be using these in. Each year this Board approves a one-year action plan, which details how we will allocate our HOME funds. The one-year action plan primarily portions out the funds between single and multifamily activities.

Within the single-family portion, we have three different NOFAs. I'm presenting the Persons with Disabilities NOFA today and the others will be presented at a later board meeting. As I stated, this, NOFA provides funds to assist persons with disabilities. Our governing statute requires that we spend 5% of our yearly allocation on programs that target persons with disabilities. These funds are available statewide, including participating jurisdictions. This current NOFA before you is for $2,328,618 and two activities are eligible tenant-based rental assistance, which receives $1,862,894 and home reconstruction, which gets $465,724. With that, I am happy to answer any questions you have regarding this NOFA.

Leo Vasquez (03:40:05):

Be sure to let the first group that spoke to us know about that.

Chad Landry (03:40:09):

Oh yeah,

Leo Vasquez (03:40:10):

This is going out. Okay. Does anyone have questions on this item?

Kenny Marchant (03:40:19):

Chairman, I'd like to make a motion. Please.

Leo Vasquez (03:40:22):

I'll accept a motion.

Kenny Marchant (03:40:24):

I move the board approved 2025 Single Family Persons with Disabilities set-aside NOFA. The publication as described authorized and conditioned in the board action request resolution and associated documents on this item.

Leo Vasquez (03:40:43):

Motion made by Mr. Marchant. Seconded by Mr. Thomas. All those in favor say aye.

Board Members (03:40:49):

Aye.

Leo Vasquez (03:40:49):

Any opposed? Hearing none. Motion carries. You're still up, Mr. Landry.

Chad Landry (03:40:53):

I'm still up.

Leo Vasquez (03:40:54):

Okay. Item 29, Presentation, discussion, and possible action on Colonia Self-Help Center Program Awards to Maverick County, Val Verde County, Webb County, and Hidalgo County in accordance with Tex. Gov’t Code §2306.582 through Community Development Block Grant Funding.

Chad Landry (03:41:14):

Good afternoon. Again, I am Chad Landry, manager of Single-Family Programs. And this is Agenda item 29, which is four proposed awards for the state fiscal year 2025 Colonia Self-Help Center Program (CSHC). CSHC is funded through the federal Community Development Block Grant program, which is awarded to TDHCA through an MOU with the Texas Department of Agriculture. CSHC provides funds to improve the quality of life for Colonia residents in nine counties along the Texas-Mexico border.

The proposed awards I bring today are for Maverick, Val Verde, Webb, and Hidalgo counties. Each contract is for a four-year term and the proposed uses of the funds are public services such as tool lending, libraries and technology access and self-help, housing construction activities like reconstruction, rehabilitation, and new construction for colonial residents. The CSHC program is unique among TDHCA's programs in that there is a committee made up of colonia residents that reviews and recommends the proposals called the Colonia Resident Advisory Committee or C-RAC.

On August 29th, I and Office of Colonia Initiative staff attended the C-RAC meeting down in Brownsville. They reviewed these proposals and recommend to the Board that it award these proposals in full. We propose to award $1 million to Maverick County, $1 million to Val Verde County, $1 million to Webb County and $900,000 to Hidalgo County. These are further described in exhibits A through D. With that, I'm happy to answer any questions.

Leo Vasquez (03:42:53):

So why did Hidalgo get shorted?

Chad Landry (03:42:54):

It's a performance thing and so they just didn't perform perfectly.

Leo Vasquez (03:43:00):

Okay, well this is again, real money for them. That's great to be dedicated to the colonias.

Do any board members have questions on item 29 of the agenda? If not, I'll entertain the motion. Ms. Farias?

Anna Farias (03:43:16):

I move the Board approve the Colonia Self-Help Center Program Awards to Maverick, Val Verde, Webb, and Hidalgo County all is described, authorized, and conditioned in the board action request resolution and associated documents on this item.

Leo Vasquez (03:43:35):

Motion made by Ms. Farias. Is there a second? Mr. Marchant, waves, a second. All those in favor say aye.

Board Members (03:43:43):

Aye.

Leo Vasquez (03:43:44):

Any opposed? Hearing none. Motion carries. Thanks. Chad. We need to move the money giving stuff up to the front of the agenda.

Kenny Marchant (03:43:53):

Could they qualify for consent agenda? I love these guys.

Leo Vasquez (03:44:10):

They could qualify for consent, However, it's great that the public hears us talking about us awarding needed funds. Okay. But yeah, I understand.

Okay, item 30 of the agenda presentation, discussion, and possible action on approving a new outside counsel contract, and delegation of contract signature authority to the Executive Director. Mr. Campbell.

Cody Campbell (03:44:33):

Great, thank you. These last couple are short, I promise. Cody Campbell, Director of Multifamily Programs for TDHCA.

This item requests approval for the Department to retain outside counsel for assistance with document preparation for some of our multifamily direct loans. As has been previously discussed with the Board, we saw a significant increase in several of our federal fund sources during the pandemic. Having met our most difficult deadlines in terms of committing those funds, we now have a significant pipeline of deals that will be gearing up to close in the next year or so. To help get through those closings as quickly as possible, the Department issued a requisition notice in July that requested qualified law firms to bid on assisting with the drafting of the contracts and loan documents for these deals. We are now recommending that the award be made to the law firm of Best, Best, and Krieger.

(03:45:23):

The initial request estimated that the total cost of this effort would be approximately $600,000. We are still reviewing our pipeline to identify any potential conflicts of interest that would eliminate specific deals from being processed by this firm. But once all of the ineligible deals are removed, the final numbers should be lower than that amount. To pay for this, we will be using the administrative funds that are included within each of these grants of federal funds. No general revenue will be used to pay the outside firm. Staff recommends approval and I'm happy to answer any questions you may have.

Leo Vasquez (03:45:55):

Okay, so this is not GR funds, it's funded by the?

Cody Campbell (03:46:01):

The admin funds that come, yes sir.

Leo Vasquez (03:46:03):

Okay. And is this a temporary experimental measure to see if we blast through everything or is this going to be a permanent recurring?

Cody Campbell (03:46:14):

It is not permanent. If it's successful, we may come back to the Board and request to continue with this initiative, but it is time limited. Beau, I believe it goes through the end of next state fiscal year?

Beau Eccles (03:46:25):

Yes. Our outside counsel arrangements on all of the other outside counsel that we have are on two-year cycles. So in the spring of 25, we'll be putting out RFQs on all outside counsel again to begin September 1st of 25.

So we'll know before probably by spring whether or not this is something we'd like to continue, and we'll plan accordingly.

Leo Vasquez (03:46:55):

Versus also just bringing someone in, additional people in house possibly. It'll be analyzed. That's my main point.

Cody Campbell (03:47:03):

Of course,

Leo Vasquez (03:47:03):

It's not going to just be a continuing recurring.

Cody Campbell (03:47:06):

Yes Sir.

Kenny Marchant (03:47:06):

Okay. If you find a conflict of interest on a particular contract, that would be default back to internal.

Cody Campbell (03:47:12):

Yes sir. We have fantastic internal attorneys who can handle that when that happens.

Leo Vasquez (03:47:19):

Okay. I think more questions than item 30. If not, then I'll entertain a motion.

Holland Harper (03:47:26):

I move the Board approve and authorize entry, to new outside counsel contract as described, authorized, and conditioned in the board action request and resolutions on this item.

Anna Farias (03:47:34):

Second.

Leo Vasquez (03:47:35):

Motion made by Mr. Harper. Seconded by Ms. Farias. All those in favor say aye.

Board Members (03:47:39):

Aye.

Leo Vasquez (03:47:40):

Any opposed? Hearing none. Motion carries.

Cody Campbell (03:47:42):

Thanks.

Leo Vasquez (03:47:42):

Item 31 of 32. 31, Presentation, discussion, and possible action on a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Vista at Silver Oaks. Mr. Goldberger,

Josh Goldberger (03:48:06):

Good afternoon, Chairman. Members of the board, Josh Goldberger, Competitive Housing Tax Credit manager at TDHCA. We only have two of these for you today, but I will still start with our usual refresher. When an award of housing tax credits is made to a development, the owner has until the second calendar year following that award to place the development in service. This deadline is federal. TDHCA has no authority to extend it. So whenever an extension is needed, we must instead reallocate the credits to reset the clock on that deadline.

Vista at Silver Oaks is a 76-unit development to be constructed in San Antonio. Awarded in 2022, the project's original and current placed in-service deadline is December 31st, 2024. The project was originally slated for completion on October 2nd but encountered delays due to some unexpected public improvements. Construction designs were originally approved by the city of San Antonio based on public as-built plans that showed existing sewer lines in place.

(03:49:06):

After construction began, the owner discovered that this was not the case and only a portion of that main had actually been built. Constructing the remainder of the public sewer line caused an 82-day delay. Notably, this project is still on track to hit the original placed-in-service deadline as construction completion is now scheduled for December 23rd. Of course, this leaves only eight days to spare and very little room for additional delays. Should something occur at the last minute, there will be functionally no remedy. To give a little breathing room and account for potential snags, the applicant has requested to extend the placed-in-service deadline three months to March 31st, 2025. Staff recommends approval.

Leo Vasquez (03:49:52):

It would be fun just to put pressure on them to get that done before the end of the year. Okay, but this is a really targeted date certain then just extra time just in case.

Josh Goldberger (03:50:01):

Correct.

Leo Vasquez (03:50:01):

So, I'm good with that. Anyone have questions or want to make a motion on an item?

Kenny Marchant (03:50:08):

Mr. Chairman, I move the Board to grant the requested treatment under an application of the Force Majeure rule to Vista at Silver Oaks with a placed-in-service deadline of March 31st, 2025, all as described conditioned and authorized in the board action request resolution and associated documentation on this item.

Anna Farias (03:30:35)

Second.

Leo Vasquez (03:50:36):

Motion made by Mr. Marchant, seconded by Ms. Farias. All those in favor say aye.

Board Members (03:50:41):

Aye.

Leo Vasquez (03:50:43):

Any opposed? Hearing none. Motion carries.

Josh Goldberger (03:50:45):

Thank you.

Leo Vasquez (03:50:46):

Thanks Josh. Item 32. The final posted item on the agenda. Presentation, discussion, and possible action on an approval of a loan and a request for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for 305 E Round Grove Living. Mr. Campbell.

Cody Campbell (03:51:12):

Great, thank you. This development was awarded 9% housing tax credits in 2023 for the new construction of 90 units, 57 of which will be affordable in Lewisville after that award. Increases in interest rates and construction costs resulted in a $4.4 million funding gap that prevented the development from moving forward. To address this, the developer applied under the department's 2024 - 2 HOME, notice of funding availability. Staff is recommending today that a loan of HOME funds in the amount of $4,438,911 be approved. This loan will be structured as fully repayable at 2% interest. Additional sources of funding for the development include an $11 million loan from PNC and $800,000 in deferred developer fee. The total development cost is approximately $30 million. So it started out at 26 and has gone up to $30 million because of the delays caused by the funding gap. The developer has not yet closed on the land or commenced construction and therefore cannot meet its current deadline to place in service of December 31st, 2025. Because of this item also includes a request to grant the development an extension to its place in service deadline under the force majeure provision of the QAP. Reissuing the credits will result in a new placed in-service deadline of December 31st, 2026, which should be comfortably achievable. Barring any additional unforeseen delays. Staff recommends approval of the loan and of the place in service extension and I'm happy to answer any questions you may have.

Leo Vasquez (03:52:47):

Okay, so this one hasn't even started yet.

Cody Campbell (03:52:50):

That is correct. Yes sir.

Leo Vasquez (03:52:56):

Does anyone else have questions on this item? The increases is just cost increases. It's not changing the number of units or anything like that?

Cody Campbell (03:53:13):

The number of units remains consistent. There was an item on the consent agenda to change their,

Leo Vasquez (03:53:18):

Like One unit. Right? Go ahead. I'm sorry.

Cody Campbell (03:53:21):

It changed their minimum set-aside from 40 at 60, which I'm sorry, from the average income to 40 at 60? That's correct,

Leo Vasquez (03:53:27):

Yeah.

Cody Campbell (03:53:27):

Okay. Which is just, it's a program thing. It doesn't affect the actual construction of the development.

Leo Vasquez (03:53:36):

Okay. Otherwise we're ready to get this thing ready to start. Hit the ground running. Okay.

Would you care to make a motion Mr. Harper?

Holland Harper (03:53:46):

I moved the Board grant the requested treatment under the application of force majeure rule and approve the requested HOME loan for 305 E Round Grove Living all as described condition authorized in the board action request resolutions and associated documents on this item.

Anna Farias (03:54:00):

Second.

Leo Vasquez (03:54:02):

Motion made by Mr. Harper or seconded by Ms. Farias. Any further discussion? Just kidding. Okay. Alright. All those in favor say aye.

Board Members (03:54:10):

Aye.

Leo Vasquez (03:54:12):

Any opposed? Hearing none. Motion carries. Thank you, Cody. Thank you for waiting until the end.

Holland Harper (03:54:19):

Mr. Chairman, can I ask a question of Ms. Morales?

Leo Vasquez (03:54:23):

Sure.

Holland Harper (03:54:26):

Thank you for waiting for the entire evening. I want to ask you a question about when we see 4% deals, they always seem to want to escalate the end. The cost seems to go up. Some of them, not all of them, go up significantly. While you don't see that in 9% deals. My gut says is you want increased cost because you can get more credits, but the credits are already allocated. So that doesn't only count there. Why do we see that so much?

Teresa Morales (03:54:58):

So, on 9% deals because the credits are coming from the ceiling, which means there's only a certain amount with which we have to allocate, you're not going to see, or if you do see large increases on the backend, they're not getting additional credits because of it. On the 4% side, the credits are not limited by a ceiling. It's limited by eligible basis. So to the extent you've got eligible costs, then you can have a credit amount increase associated with that.

Holland Harper (03:55:27):

So how do we curb that behavior so we can get more deals out there? Or more credits out there? How do we curb that behavior? Because there would be no cost control for anybody to build those. When you come to me and I look at these deals and we have 68 and 87% increases in cost, it just seems like a lot.

Teresa Morales (03:55:54):

So, what I will tell you is that type of behavior, I would say is rare. So we do have a provision in the rules that says, it used to be if your credit increase is greater than 110% of what it was originally. Then you need to come back to the Board and explain how you got it that wrong. Because of Covid, we modified the rule to 20%. So on the agenda for this meeting, there was a case where the credit amount increased and then it's before the board for the applicant to explain what happened. What I will tell you with respect to the items that were on the agenda that had those substantial increases, that is considered rare just for what happened that year. So when I take a look at all of the 4% deals that closed in 2020, both new construction and acquisition rehab. The Department received the final cost certification packages on 84% of those. And of that number, the number of change orders or cost increases ranged anywhere from $0 actually to $4 million I think was the highest one that I saw. But everything in the middle was several hundred thousand, a million here and there.

Holland Harper (03:57:22):

So good management of projects,

Teresa Morales (03:57:24):

I'm sorry,

Holland Harper (03:57:24):

Most of its good management of projects.

Teresa Morales (03:57:26):

It's been managed by projects. So what was on the agenda today was in fact not the norm. Even for all of those deals during Covid, 2020 was the record-breaking year on the 4% side where there were 16,000 units that were produced. So that's 76 transactions. And out of the 76 transactions, we've got 84% of them already in house, which means those are finished.

Holland Harper (03:57:56):

Thank you so much.

Teresa Morales (03:57:57):

Sure.

Leo Vasquez (03:57:58):

I agree with your concern. This seems like the system is perversely incentivized to increase the cost so they can get more credits. Again, we don't need to address this right now because Mr. Marchant has to catch a flight. So, thank you for that and let's continue conversation on there.

The Board has addressed the posted agenda items. Now is the time of the meeting when members of the public can raise issues with the board on matters of relevance to the department's business or requests that the board placed specific items on future agendas for consideration. Is there anyone that would like to make public comment at this time?

Marty Mascari (03:58:42):

I would. I so bravely do.

Leo Vasquez (03:58:45):

Alright. You've waited the whole time.

Marty Mascari (03:58:46):

That's alright. I apologize that I'm not as eloquent as the people that have gone before me, but I'm going to do my best here.

Leo Vasquez (03:58:56):

Introduce yourself and sign in.

Marty Mascari (03:58:57):

To keep it brief, my name is Marty Mascari. I've actually been involved in affordable housing since 1995. In early 2000s I was involved in developing, I got into non-for-profit and got into affordable housing advocacy. We do a lot of training for people who are either caregivers, social service providers, and consumers of affordable housing. I currently am a contractor under the North Central Texas Council of Governments. I'm a contract housing navigator and we serve 14 counties in the greater Dallas-Fort Worth Texas area. But I was just asking if you would take a chance to look at the clearinghouse. One of the issues that I see, we do a lot of education and teaching people all of the different types of affordable housing. For you all that I know are involved with this on a day-to-day basis this seems very familiar language to you when we talk about sixties and thirties and sixties and fifties, and we talk about sliding scale. How vouchers work.

(04:00:11):

And so we do a lot of education to try to teach people how all of the different types of affordable housing works. But one of the hardest things we have is in teaching them about tax credit housing. In the vacancy clearinghouse where we teach them to go in to look at what tax credit housing is available in your area. It's not listed how many units are under each income restricted level, how many 30% units, how many 50% units, how many 60% units. And the problem that is, is number one, it causes them to have to call each one of them to find out. But more importantly, the issue is that most of the people answering the phone don't have a clue either because they're a staff member, they're just somebody they've hired because they've had a hard time filling that spot. And so they call and the person, the consumers don't have enough confidence to say, well then could I talk to your manager, or could I talk to someone else who might be able to answer that question?

(04:01:20):

And so, all we're looking to see if we could just get that posted on the clearinghouse. I realize it would not have to be changed just so one time post, we have 31- 30% units, 50- 1-bedroom, 50% units. But just to do that on a one-time basis right at the beginning. But then also now that we're seeing so many of them change as they're running out of their affordability period and they're entering into a new agreement and now all of a sudden, they've gone from thirties, fifties, and sixties. Now they have, they're all 60% units.

Leo Vasquez (04:02:09):

Yep. Okay. Maybe there's someone on staff we can connect with.

Marty Mascari (04:02:14):

Yeah, I actually had talked with Nathan, and he was the one who suggested I come to the meeting.

Leo Vasquez (04:02:20):

Okay, definitely. That's great. Cody, or?

Cody Campbell (04:02:24):

I'll look into it.

Leo Vasquez (04:02:28):

Okay.

Marty Mascari (04:02:32):

Thank you very much.

Leo Vasquez (04:02:33):

Alright. No, great. Thanks for coming.

Marty Mascari (04:02:34):

Thank you all. I mean I don't envy any one of you after today.

Bobby Wilkinson (04:02:39):

It is not like that much of a technical challenge.

Leo Vasquez (04:02:41):

Well, my question is here's how many we have, but then how many are available?

Marty Mascari (04:02:46):

And that would be the,

Leo Vasquez (04:02:46):

Problem.

Marty Mascari (04:02:48):

And we're not looking for that.

Leo Vasquez (04:02:50):

I think that for someone calling needs to see if there's none available.

Marty Mascari (04:02:54):

Well, the problem with that is that's a problem across the board. The minute they change it, it's old five minutes later.

Leo Vasquez (04:03:00):

Technically we're not allowed to discuss anything on this period, that's not posted. Feel good that I stopped that? Okay. Alright. Okay. Is there any other public comments? Thank you. If not, the next scheduled meeting of the governing board is set for 10:00 AM Thursday, November 7th, 2024. And is this still correct? In the capital extension room, E 2.030. Sound right? Okay. But watch for further postings for all that confirmation and seeing that the business is completed, it is now 2:03 and this meeting is adjourned. Thank you.