TDHCA Governing Board Meeting Transcript from April 11, 2024

10:00 a.m. Central Daylight Time

TxDOT Greer Building, Williamson Board Room

125 E. 11th Street, Austin, TX

Leo Vasquez (00:06:51):

I would like to call to order the meeting of the governing board of the Texas Department of Housing and Community Affairs. It is 10:04 in the morning of April 11th, 2024.

Quick reminder, everyone please silence your phones and devices and such. We have a little pre-business to do here before we start the meeting.

As you may notice, a new face on the dais here on March 27th. Okay, well, Governor Abbott actually reappointed your chairman to the board, so y'all are stuck with me for a little while longer. And we welcome to the board Cindy Conroy of El Paso. She's the director of community outreach and an aid to the chairman of West Star Bank. She serves as the chair of the El Paso Community College Foundation and the Heart Gallery of El Paso and is the immediate past chairman of the United Way of El Paso County and a whole bunch of other things. But Cindy received her Master of Arts in Political Science from the University of Texas at El Paso and we are about to welcome her to the board. But first, Ms. Conroy, it is my understanding that you have been provided TDHCA'S statutorily required training program including training on the Public Funds Investment Act and that you have completed it prior to today. Is that correct?

Cindy Conroy (00:08:27):

That is correct.

Leo Vasquez (00:08:28):

Thank you. So you are now qualified to be counted for purposes of quorum and to deliberate and vote on the board. So welcome, welcome, welcome.

Now we'll start out with the roll call. Mr. Marchant has asked for an excused absence. I believe he's receiving some sort of recognition like best alumnus of his university or something like that, so well deserved honor, but he's not here today. But it's okay because we have plenty for a quorum. You don't understand how this happy this makes me that we have another board member! So Ms. Farias,

Anna Farias (00:09:10):

Here.

Leo Vasquez (00:09:12):

Mr. Thomas.

Ajay Thomas (00:09:14):

Present.

Leo Vasquez (00:09:15):

Mr. Harper

Holland Harper (00:09:15):

Here.

Leo Vasquez (00:09:16):

And Ms. Conroy

Cindy Conroy (00:09:18):

Present.

Leo Vasquez (00:09:19):

Excellent. We have a quorum. As usual, we will start with the pledges of allegiance with Bobby leading the pledges.

All Board Members (00:09:29):

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 (00:09:57):

We should have had board member Conroy do that.

(00:10:07):

Before we get started here, I'd also like to say I am – just kind of blew through it real quickly about being reappointed - but I really am excited to be continuing here and working with my fellow board members and staff and really all of you in industry, we're making such a difference in the lives of Texans and we all know that just we could build every unit that gets applied for every year. We could double that number and we still wouldn't be doing enough. There wouldn't be enough to meet the need in Texas. So I'm really hoping we can come up with some new ideas and out of the box thinking on how to just shift the paradigms and move them forward, but then also continue to work together to figure out how we can make this process smoother, more efficient, and more effective. Because again, I think we're all paddling as fast as we can. We're definitely paddling upstream, but we are making a difference and making progress. So looking forward to doing that together, continuing to do that together for a number of years more.

So with that I'll recognize Mr. Lyttle has two resolutions, board resolutions. First recognizing April as Fair Housing Month and then we're getting ahead to a resolution recognizing May as Community Action Month. Mr. Lyttle,

Michael Lyttle (00:11:39):

Thank you Mr. Chairman. In addition to the fair housing resolution that's in the board book, we have a proclamation from the Governor actually that I'd like to read this morning. It reads as follows, equality is the cornerstone upon which a just civilized society is built. This fundamental right requires us to counteract discrimination and remove unfair barriers in all areas of public life, including housing. In 1968, President Lyndon Baines Johnson, a proud Texan, signed the Fair Housing Act into law protecting an individual's ability to own or rent property free from discrimination. Building upon this Landmark Act, Texas further protected this basic right in 1989, by passing the Texas Fair Housing Act, which prohibits discrimination based on race, color, religion, sex, national origin, family status or disability. By promoting access to housing, these acts give all Texans the opportunity to pursue their dreams. In a state populated by people of all races, nationalities, religions, and backgrounds, fair access to housing has enabled all Texans to succeed in the Lone Star state.

(00:12:51):

Each year, the month of April is set aside to promote equal opportunity in housing. In this way, our great state will continue to advance the cause of liberty and justice for all. I encourage all Texans to support fair housing practices so that we can build a more prosperous future for Texas and everyone who calls it home. Therefore, I, Greg Abbott, Governor of Texas, do hereby proclaim April 2024 to be Fair Housing Month in Texas and urge all Texans to observe the occasion with appropriate ceremonies and activities. In testimony, whereof I have here to affix my signature, this the sixth day of March, 2024, governor of Texas, Greg Abbott.

Leo Vasquez (00:13:30):

Excellent.

Michael Lyttle (00:13:33):

The second resolution which is in your board book recognizes May as Community Action Month. It reads as follows, whereas community action agencies are nonprofit and unit of local government organizations designated under the Economic Opportunity Act of 1964 to serve to ameliorate the effects of poverty and help persons experiencing poverty to transition to self-sufficiency. Whereas community action builds and promotes economic stability and enhances stronger communities and the opportunity to live in dignity. Whereas nationally, community action has enhanced the lives of millions by providing essential life-changing services and opportunities. Whereas community Action serves 99% of America's counties in rural, suburban and urban communities and works toward the goal of ending poverty in our lifetime. Whereas Texas has a strong and vibrant network of community action agencies to deliver community action to Texans in need. Whereas community action will continue to implement innovative and cost-effective programs to improve the lives and living conditions of the impoverished, continue to provide support and opportunities for all eligible households in need of assistance and continue to develop and carry out effective system reforms.

(00:14:53):

And whereas the Texas Department of Housing and Community Affairs and the State of Texas support the Community Action Network in Texas in working to improve communities and make Texas a better place to live not only during Community Action Month in May, but throughout the entire year now, therefore it is hereby resolved that the Governing Board of the Texas Department of Housing and Community Affairs does hereby celebrate May 2024 as Community Action Month in Texas and encourages all Texas individuals and organizations public and private to join and work together in observance of the hard work and dedication of Texas community action agencies.

Leo Vasquez (00:15:30):

Great. Thank you Michael, and congratulations on your upcoming changes in your life.

Michael Lyttle (00:15:40):

Proof that God still does miracles.

Leo Vasquez (00:15:43):

Perfect. Somebody's getting married.

So moving on to the consent agenda. Are there any items listed on the consent agenda the board member would like pulled to action or member of the public?

Ajay Thomas (00:16:10):

Mr. Chairman? May I? Well I have no issue with the items on any of the items on the consent agenda. There is one item number six, presentation discussion, possible action on resolution number 24-016 regarding the annual approval of the department's investment policy in abundance of transparency, I do want to disclose that in that agenda item as part of the approval of the investment policy, there is an attachment E, which has a list of approved broker dealers where the agency can use certain firms to purchase securities. One such firm listed on that list of approved broker dealers is FHN Financial Securities Corporation.

As an employee of FHN Financial, which is a division of First Horizon Bank and being a senior executive at the bank, I do want to disclose that FHN Financial Securities Corporation is part of First Horizon Bank and FHN Financial. While I have no management oversight or involvement with the entity whatsoever, I am going to elect to abstain from recording a vote on the consent agenda this month.

Leo Vasquez (00:17:18):

Great, thank you. So noted and we will continue from there again. Any other changes to the consent agenda? If not, I'll entertain a motion.

Anna Farias (00:17:30):

Mr. Chairman, I move the board approve items one through 12 as described and presented in the respective board action request and reports

Leo Vasquez (00:17:41):

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

Holland Harper (00:17:43):

Second.

Leo Vasquez (00:17:44):

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

All Board Members (00:17:48):

Aye.

Leo Vasquez (00:17:49):

Any opposed? Hearing none. Motion carries and let the record reflect that Mr. Thomas abstained from voting on the consent agenda.

Moving right along to item 13, the executive director's report. Mr. Wilkinson.

Bobby Wilkinson (00:18:07):

Thank you Chairman. Starting with the Texas Homeowners Assistance Fund. Some good news since the last time we met. Treasury came out with the latest program performance data for all the states and I'm pleased report that Texas leads the nation and the number of applications reviewed and homeowners assisted. We also are well above the national average in terms of the percent of total allocation expended at 81.78%. The average was 69.74%. That 81% is actually pretty dated now. We have a lot more than that expended. We're leading the nation in a very efficient manner, moving the second largest allocation of funds, $842.2 million with an average administrative expense of about 9%, which is about the national average. Good job to our HAF team and our vendor Yardi. At this time, all of our HAF funds have been committed and the program is in phase three, meaning we're making final payments to approve households. The portal has been shut down. There's very little any more to review or appeals to happen at this time.

Leo Vasquez (00:19:15):

So on that front, to summarize, you're saying Texas does it bigger and better than everyone else?

Bobby Wilkinson (00:19:20):

Definitely, yeah.

Leo Vasquez (00:19:21):

Alright.

Bobby Wilkinson (00:19:22):

And HAF really will be over. Yeah, I think you'll remember rent relief every few months or six months we'd get another $40 million and try to kind of start up again. HAF doesn't have that same kind of reallocation process. So this is what we have.

The TDHCA response to the panhandle wildfires. Some of you may remember we allocated about $1.2 million of discretionary emergency Community Services Block Grant for the Panhandle wildfires. We've been communicating with the Governor's Office and the Texas Division of Emergency Management. We promoted our resource information on our website through social media and through TDEM's wildfires assistance portal. Our community action agency partner in the area, it's called Panhandle Community Services, they've been doing some great work in helping folks as best as possible. They've been participating in numerous meetings and community events designed to provide services to those Texas households displaced or impacted by the disaster.

(00:20:25):

They also have reached out to every county judge in the area to inquire about needs and services. Some of you may have been here when we saw the Community Action Agency partner from Hidalgo County when they brought their mobile trailer that they use to go around their communities and assist in the aftermath of disasters, has computers and desks.

Leo Vasquez (00:20:46):

That's really cool.

Bobby Wilkinson (00:20:47):

Yeah, so Jaime Longoria from Hidalgo County contacted Maggie York who runs PCS and lent them the trailer and so we have two subrecipients who are coordinating for the better of Texas. It's pretty cool to see. We also have a story from a PCS shopping event at the Walmart in Borger, Texas, where they encountered a mother and a 16-year-old son. Everything destroyed in the fire. She had a new pet dog. It was someone given to her as a support animal and so they needed clothing, shoes, toiletries, kitchen supplies, coffee pot and stuff for the dog as well. And CSBG is so flexible they were able to help them with all this stuff and it was an honor to serve the family and all three were visibly better off when they left.

(00:21:44):

Section 811. You may be familiar with this program and this is like a voucher program, but has specific recipients, either someone exiting a nursing facility or youth exiting foster care that has a disability or someone with a physical disability and we find units in our tax credit properties mostly and pay deposit and rent and such. We've had several rounds of this that we've applied to over the years from 2012 and now we're using our 2019 funding. We moved people into the San Juan Square apartments of San Antonio, five into the Brittmore in Houston. We're prepared to move more in Fort Worth and El Paso. We have

Austin and Rio Grande Valley applicants in process and with that funding we have planned to house up to 129 extremely low income applicants and then we're going to be applying for another round of 811 as well.

In fair housing, as you heard earlier from the resolution, April is Fair Housing Month. Our own fair housing coordinator, Nathan Darus, will be presenting three fair housing webinars for the next three consecutive Mondays. Details are listed on TDHCA’s online calendar on our website. It's a great opportunity for folks to learn more about fair housing and how it impacts all of us.

And that's it for my prepared remarks, but I'm happy to answer any questions the board might have

Leo Vasquez (00:23:07):
And board members have questions for Mr. Wilkinson? If not, sounds good. Thank you for that report.

Moving right along to item 14 on the agenda: Presentation, discussion, and possible action authorizing the Department to submit an application for the U.S. Department of Housing and Urban Development’s Preservation and Reinvestment Initiative for

Community Enhancement Program, and if successfully awarded to operate such program. Ms. Boston, tell us about it.

Brooke Boston (00:23:35):

Thank you Chairman Vasquez, Board members, and welcome Ms. Conroy. I'm Brooke Boston, Deputy Executive Director. This item relates to a notice of funding opportunity recently released by HUD for the Preservation and Reinvestment Initiative for Community Enhancement Program, which is just PRICE and that's all I'm going to call it from here out. The purpose of the PRICE program is to preserve long-term housing affordability for residents of manufactured housing or eligible manufactured housing communities, what we will call MHC to redevelop MHCs and to benefit low income residents. The NOFA made available $225 million for competitive grants with a maximum request amount of $75 million. The federal program is structured off of the community development block grants, CDBG program, which is one that we have experience with. We expect competition on this NOFA to be tough because it's not only states who are eligible to apply, but also local governments and nonprofits and that's national for a pretty small pool of $225 million.

(00:24:36):

Eligible activities include preservation and revitalization, establishing loaner grant programs for new manufactured housing units and land acquisition replacement of manufactured homes built before 76 development or improvement of infrastructure, acquisition, purchase installation, and new construction of housing mitigation and resilience activities and establishing a manufactured housing preservation fund. In the state of Texas 7.4% of our population, roughly two million people live in manufactured homes and that percentage rises up to 15% along the Texas-Mexico border. Based on the breadth of this issue in Texas, staff feels that the State of Texas is an ideal candidate to receive these funds from HUD. Without getting too far into the weeds and keeping in mind more detail is available in your board materials. Our consideration in designing a program was driven by both what we thought was doable also by what we felt would not be effective. There are structural challenges associated with seeking to rehabilitate or improve manufactured housing units.

(00:25:41):

There are limited lifetime expectancy issues on older manufactured housing units and applying the required affordability period to properties that may not be assured of lasting affordability will also be a challenge because of those restrictions and limitations, staff is not recommending doing an individual unit repair rehab as an activity. We believe a more viable option is to use the funds for larger projects like planning, land acquisition or installation of affordable housing development or improvement of infrastructure or to help support manufactured housing communities in colonias. At this time, staff is recommending that the application submission to the NOFO be designed roughly after two existing home activities, single family development and home acquisition with new construction, taking advantage of existing program knowledge and documents either through self-administration or through one or more sub-recipients. The funds would be used to, this is just one possibility of how the funds might be used.

(00:26:41):

I should caveat that the funds would be used to purchase larger tracks of land, which would be parceled out into small lots on which the program would develop the needed infrastructure, place new MHUs on each lot, and finance each individual lot to qualified households with a 0% interest loan or deferred or forgivable loan. Finding larger tracks of land would allow for infrastructure to be installed on a larger scale and would be more cost effective compared to doing individual lot projects. Funds would be available throughout Texas and rural and small metropolitan areas with a priority on short-term set-aside for unincorporated areas of counties within 150 miles of the Texas Mexico border, what we generally would consider a colonia. However, one of the caveats of this program is that we are not sure yet if we have to identify subrecipients in advance of our application to HUD.

(00:27:33):

If we do, we would probably not be able to identify subrecipients across the entire state and we would narrow that down probably to that general border area.

Staff today is seeking your permission to submit an application to HUD for the PRICE program competition. We believe our experience in successfully operating one-time programs such as the variety of pandemic related funds and our experience in operating single family assistance programs enables us to have the appropriate expertise to both apply for and administer this program. If awarded the NOFO requires that before submitting our application to HUD, we publish our PRICE application in its entirety for public comment for up to 15 days. When we are prepared to do that, barring any unforeseen challenges that prevent our submission, we would submit a full application by the deadline of June 5th, 2024, and we're suggesting applying for the full $75 million, which is the max.

(00:28:31):

A few caveats. There are still several unanswered questions we have identified that may influence program design and how we proceed. The feedback we will get from HUD on those questions, the ongoing review of the NOFA, and program design considerations may all alter this concept prior to a draft application being released for public comment. Additionally then after we receive public comment, that may also alter what we decide to do in our application to HUD.

Staff requests flexibility to revise the program concept described in your item, which may include making the application publicly available as required by HUD and making subsequent responsive changes and seeking out subrecipients and entering into agreements with those potential partners prior to applying to HUD if needed. Should the application be successful and a PRICE program award be made to TDHCA, staff is also requesting authority to operate that program. The program is expected to last from October of 2024 through September of 2030. And with that I'm happy to answer any questions.

Leo Vasquez (00:29:36):

Great, thanks Brooke. I do have a couple of questions. So we're applying for $75 million?

Brooke Boston (00:29:42):

Yes.

Leo Vasquez (00:29:43):

Do we have any idea, are they going to just allocate proportionate funds to everyone that applies or,

Brooke Boston (00:29:52):

They haven't made clear at all that any, they're allocating it, for instance, so much per state or they haven't commented on that at all, so there's no reason to think, I mean, I would think that they wouldn't do a grant as big as $75 million for one entity, but,

Leo Vasquez (00:30:11):

It's good to ask.

Brooke Boston (00:30:12):

Yeah, ask for more and maybe they'll give us less.

Leo Vasquez (00:30:16):

So we don't know if they're going to give everyone a piece of the pie or is it just so small?

Brooke Boston (00:30:23):

Yeah, I don't see how they could, knowing that locals and nonprofits and states are all applying.

Leo Vasquez (00:30:30):

Okay, and then to clarify, you just said this could probably get started as early as October of this year?

Brooke Boston (00:30:39):

Yes, yes.

Leo Vasquez (00:30:39):

Of course, they may process everything that quickly and,

Brooke Boston (00:30:44):

Right. Yeah, HUD rarely has actually issued its awards when they say they will. So I think it it's unlikely, but that is what their NOFO says. Yes.

Bobby Wilkinson (00:30:56):

During the pandemic we would get a White House press release about our award and then get the money like 18 months later.

Leo Vasquez (00:31:03):

Okay. So obviously assuming we approve this, we're not locking into the timeframe it has to be done by completed by October of 25 or something?

Bobby Wilkinson (00:31:12):

No. It has expenditure deadline of 2030, right?

Brooke Boston (00:31:15):

Correct.

Leo Vasquez (00:31:16):

Okay. And then just one more clarification too, so everyone understands this. If we need FTEs for this program, if we get an award, $50 million, whatever, and we need the FTEs to help run it, we can hire those based on it being a separate set of federal funds,

Brooke Boston (00:31:36):

Correct. So,

Leo Vasquez (00:31:37):

We don't have to go back to our state legislature and ask for additional headcount.

Brooke Boston (00:31:42):

Correct. They're not considered part of our cap FTEs, which are part of our legislative appropriation request. We casually just, they're called temporary full-time FTEs and so they would be able to be staffed up separate.

Leo Vasquez (00:31:58):

Which is most of our, a big chunk of our,

Bobby Wilkinson (00:32:02):

It has been the last few years, it’s called Article Nine employees,

Leo Vasquez (00:32:08):

Okay.

Anna Farias (00:32:11):

As I recall way back when I used to run the program in DC, sometimes they do it by Census, which of course you would mean by definition, Texas always gets a bigger cut. And then you distribute it and that's when City Council and County Commission works, all fighting for the same pot. Then their respective senators and congressmen are the ones that have to be given 72 hours’ notice and then they will proclaim to their constituents that they're bringing all this money to their constituents and then the Secretary will also announce it. Right now they have an Acting Secretary. The previous one resigned about a month ago, so you never know. The important thing is to submit the application, try to get as much money as possible, and take it from there.

Brooke Boston (00:33:05):

Yeah, that's definitely our philosophy when we see notices of funding availability, if we think we could do it, we go after it.

Leo Vasquez (00:33:12):

This funding notice of funding opportunity here. Yes. It's a, NOFO

Brooke Boston (00:33:17):

I’m old school. I still call it a NOFA.

Leo Vasquez (00:33:21):

What’s a NOFO? Okay.

Bobby Wilkinson (00:33:22):

Megan has a long legal story about why they changed from NOFA to NOFO. We're not going to do that. No.

Leo Vasquez (00:33:29):

Maybe a blog post on the website. Okay. Do any other board members have questions for Ms. Brooke Boston on this item? If not, I'll entertain a motion. Mr. Harper,

Holland Harper (00:33:42):

I move the board, approve and authorize the department staff to prepare an application for up to $75 million for the PRICE NOFO and approve and authorize the execution of any necessary instruments to proceed with the program if awarded. All as described and conditioned in the board action request resolutions and an associated documents on this item.

Anna Farias (00:34:00):

Second.

Leo Vasquez (00:34:01):

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

All Board Members (00:34:05):

Aye.

Leo Vasquez (00:34:05):

Any opposed? Hearing none, motion carries.

Brooke, you're still here.

Brooke Boston (00:34:09):

Well, thank you. I was going to tell you that the next item is actually going to be presented by our Director of the Texas Rent Relief Program, Mariana Salazar.

Leo Vasquez (00:34:17):

Okay. Well while Ms. Salazar comes up here, I will say item 15 of the agenda: Presentation, discussion, and possible action authorizing a vendor contract with Benevate, Inc., for the Texas Rent Relief Program as required by Texas Government Code, Chapter 2155

Mariana Salazar (00:34:38):

Good morning everyone. Just testing here. My name is Mariana Salazar and I am the Texas Rent Relief Director. Before I seek your approval to enter into contract with Neighborly, I would like to just bring you up to date where we've been with the Texas Rent Relief Program. I'm happy to report that just as other programs, we are bigger and better than everyone else in the nation and the Texas Rent Relief was one of those examples. We ended up dispersing $2.2 billion to over 323,000 households throughout the state of Texas. Internally, we're happy to say we've closed the program. Of course we're sad that we're no longer able to assist with further assistance, but we are now kind of in the final phase reconciling financial records reporting to the treasury as required, working through vendor closeout, planning for records retention, program closeout, and responding to audit request.

(00:35:42):

We do have obligations that extend into the near future and into the next five to eight years. The Texas Rent Relief Program is required to report until the end of the period of performance, which is September 30th, 2025. We then have to submit a final report in January of 2026. We have received a preservation notice from the Treasury OIG which requires that we keep our records, our program records, in native form until 2028 and past that, there's the general requirement also for the program to keep records until 2030 based on five years after the end of the period of performance. So I'm here to seek your approval to enter into a contract to be able to meet our obligations, to keep our records in native format, to be able to meet reporting requirements in the future to respond to audit requests and so forth.

(00:36:49):

There is, the general guidelines says that we could keep it in raw data, but because we have received the preservation notice, we cannot keep it in raw in its raw format and it would be practically unusable if we were to keep millions of records in an Excel spreadsheet. The pricing for keeping the data is standard across all the Neighborly clients. They charge a fee per application, so it is pretty straightforward number of applications times a certain amount, and that's how you get the pricing. And we are going to enter into a yearly contract and then we'll present every year to renew the contract. If at some point we don't need to keep the data anymore, once the preservation notice expires, then at that point we can decide to now go to its raw format and no longer keep this data. It does have a lot of personal identifiable information that it's very sensitive, so we want to make sure that data is safe.

(00:37:57):

And so part of the contractual obligations is that this software company keeps this data in FedRAMP certified data center, that it's secure. There's a lot of other protections we build into the contract, including SOC two type audits every year where they have to share the result and if there's any findings, then of course they have to work to solve those. There's annual system penetration testing, security trainings for staff, computer virus detection software and CloudFare to monitor or limit application traffic. So we feel pretty, we've been working with Neighborly over the past six months to ensure that what they offer us is secure. It's a big responsibility. Of course, a data breach will present all sort of financial losses, operational impact, legal fines, reputational damage and so forth. So we feel we've done our due diligence and we now want to enter into contract with Neighborly.

Leo Vasquez (00:39:02):

Okay, thank you. Ms. Salazar, let me before we get down into this particular request, say again how much we distributed during the program?

Mariana Salazar (00:39:13):

$2.2 billion.

Leo Vasquez (00:39:14):

$2.2 billion for Texas residents.

Mariana Salazar (00:39:18):

We're very proud of that.

Leo Vasquez (00:39:19):

That's very good to be proud of. Okay. Now back specifically to this contract, I think there's no question that we need to have the data protected by a professional company. This is what they do and accessing it in raw form would just be a nightmare if we had to do with that DIR or something like that. But is there a fixed cost per year and then a variable cost per record? Yes. What is that variable cost per record?

Mariana Salazar (00:39:54):

Yeah, the fixed cost is $12,000 and the variable cost is a few cents times the number of records.

Leo Vasquez (00:40:03):

Okay, like 8 cents per, yes, I believe I read that right. Okay. So 8 cents per record per year and then a fixed $12,000, which is not the user licenses. Yes, to access. Okay. Alright. Do the board members have questions on this?

Ajay Thomas (00:40:24):

I do. Mr. Chairman if I may, just for my own education. So with this particular contract, you spoke about the importance of retaining and maintaining the information and making sure it's secure, any of the cloud-based security. Does the agency own all the data ultimately and is it secure in its own cloud or are we commingled with other contract vendors relationships that this particular organization has and how are they going about assuring that that security is there for all the data that we're providing?

Mariana Salazar (00:41:00):

So we own the data and we will own it in its raw form. What we're contracting the software companies to provide access to the database. So we can mine it, we can download it, we can readily provide it to auditors. They're going to look for a needle in a haystack, give me records for this one and give me all the records. So we're going to be able to do all through that. Our relationship with Neighborly, whether they have subcontractors for their cloud storage, I don't know. I can come back and share that information, but I think that was the part, I mean, I don't know the details. They themselves have to buy cybersecurity insurance, they have to buy cloud services. How they do that. I don't know our contractual relationship with them.

Ajay Thomas (00:41:52):

Okay, great. One other quick question. So just for our own benefit, how did we come about the process of selecting Neighborly? Was it through an RFP process? Did we look at multiple vendors and what they provided in terms of services and features, or how did we decide on this is the contract for us? Yeah,

Bobby Wilkinson (00:42:11):

Mariana, do you want me to take that one or I mean, because it was before you became the director, right? So this was emergency procurement during Covid, but we still we're selecting among turnkey vendors to run the whole program. The turnkey vendor we selected was going to use their own proprietary software. It crashed and failed and then at their own cost money were already given them. They procured Neighborly. So Neighborly was a subcontractor of our turnkey contractor. Did I leave anything out?

Mariana Salazar (00:42:42):

Yeah. So basically at this point, Neighborly has been our system of records. It's the software that our primary vendor chose at one point with our approval to use for the entire system. We've been using it since we launched on February 15th, 2021. We started using Neighborly on March 1st, March 15th at the latest. So we've been using it all throughout. So it is the software, it is proprietary software. We did actually go through an RFP, see if other people would apply. We just like to be transparent and see if even anyone else who they work with could provide the service. No one else could provide the service. So we're pretty much stuck with them. But that was a choice that was made much earlier once we started working with that one software company. Yeah.

Ajay Thomas (00:43:41):

Very good. Mr. Chairman, thank you.

Leo Vasquez (00:43:44):

Any other questions? If not, I'll entertain a motion regarding item 15 of the agenda.

Ajay Thomas (00:43:52):

Mr. Chairman, I move the board, approve the contract with Benevate Inc. And approve and authorize the execution of any necessary instruments, all as described at conditioned in the board action request resolution and associated documents on this item.

Holland Harper (00:44:03):

Second.

Leo Vasquez (00:44:04):

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

All Board Members (00:44:09):

Aye.

Leo Vasquez (00:44:10):

Any opposed? Hearing none. Motion carries.

One last question even though we already approve this. So the funding to pay for this contract, is that coming out of our GR funds or is that still

Mariana Salazar (00:44:24):

No, our total contract award from the Treasury is $2.6 billion. We had about $243 million set aside for admin and that's even below what's allowable. We could spend on the first trench of money, about 10% of admin on the second, about 15% of our admin were below our threshold limit. And if you think about this as very, very small compared to that $243 million admins set aside for a $2.6 billion,

Leo Vasquez (00:45:00):

And again, it's being funded through the program itself.

Mariana Salazar (00:45:03):

Funded through the program admin dollars from the Treasury,

Leo Vasquez (00:45:06):

We're not having to come out of our pocket anymore.

Mariana Salazar (00:45:09):

Correct.

Leo Vasquez (00:45:09):

Perfect. Forgot to highlight that before we vote.

Mariana Salazar (00:45:12):

Yes. Important point. Great.

Leo Vasquez (00:45:14):

Thank you Ms. Salazar.

Mariana Salazar (00:45:15):

Thank you so much.

Leo Vasquez (00:45:17):

Okay, item 16 on the agenda: Report on the closing of the Department's Residential Mortgage Revenue Bonds 2024 Series A (Tax-Exempt) and Series B (Taxable), Mr. Fletcher. And also just so everyone notes, there are several items that we probably would've put on the consent agenda under normal procedures, but since we have our new board member and we're trying to get her up to speed, I thought we'd try to move several of these to just actual report items so that you can just get more flavor of all the different types of things we do here. So Mr. Fletcher,

Scott Fletcher (00:45:56):

Thank you Chairman. Hello board. Good morning and welcome. My name is Scott Fletcher. I'm the Director of Bond Finance here at Texas Department of Housing and Community Affairs. As Chairman said, this is the report on the closing of Department RMRB 24 Series A tax exempt and Series B taxable bonds.

On September 7th, 2023, the Board approved the issuance of mortgage revenue bonds for fiscal year 2024, excuse me, in an amount not to exceed $1.1 billion. With this issue, the Department has issued $500 million under this authorization. On March 7th, the department provided a report to the board informing the Board of our intent to issue RMRB Series 24 A and B. The A bonds tax-exempt in the amount of $150 million, B bonds in the amount of $100 million. Those were taxable. Preliminary official statement was published on March 5th. Retail institutional retail and institutional order periods were initiated and completed on March 12th, 2024.

(00:47:05):

Deal closed yesterday, April 10th. Our regular financing team Bracewell bond counsel, McCall Park person Horton as disclosure counsel, Stifel Nicholas as financial advisor underwriting team led by RBC as book running lead senior manager Jeffries and

Morgan Stanley as co-senior managers with Ramirez, Piper Wells and Luke Capital Markets as co-managers. The A and B bonds were issued for the primary purpose of providing funds for mortgage back pass through certificates, funding loans for down payment and closing cost assistance and paying lender compensation related to mortgage loans. The 24 A bonds were structured to maximize premium received while keeping mortgage rates as low as possible. Fixed rate and tax exempt bond structure included par and premium serial bonds, par and premium term bonds and a 109.95 premium pack or planned amortization bond. The 24 B taxable bonds were structured to be front loaded to reduce the cost of funds, fixed rate and taxable.

(00:48:11):

The structure included par serial bonds, par term bonds, and a modest premium 102.775 PAC bond. The par amount received for the A bonds, the par amount of the A bonds sold was $150 million with a premium received at $9.5 million for total proceeds of the A series of 1 5 9 5 0 3 8 9 4, spot 9 5. That premium is used to fund down payment assistance and closing costs for loans originated through the bond issue as well as a portion of lender compensation. Issuer contribution on the tax exempt bonds was $795,213 and 72 cents. The par amount of the 24 B taxable bonds was $100 million. Premium received is $1.1 million for total proceeds of $101 million, 1 9 5 8 8 6 spot 2 5. Ensure contribution for the taxable bonds was $2,441,189 and 3 cents. Borrowing cost on this deal, tax exempt bonds were the arbitrage yield on the bonds was 4.287% on the taxable series B bonds 5.35% for a combined yield on the bonds borrowing cost of 4.624%.

(00:49:40):

Let's see. These bonds combined made $175 million available for assisted loans, providing two and three points of down payment assistance or closing cost assistance in the form of the 30-year non-amortizing 0% second lien loan that is due upon sale or refinance of the first mortgage. This series also provided $75 million for unassisted loans providing zero points in down payment assistance at a lower rate than we have on those assisted loans. Eligible loans were FHA VA and USDA-RD loans. The mortgage rates offered on these loans in the non-targeted area, initially 5.625% for the unassisted loans, 6.125% for the two-point DPA loans and 6.625% for three point DPA loans. We also made a point on this deal to do better rates on our targeted area loans where we offered unassisted loans at, lemme confirm I have this right. Yeah, 5.375%, 5.875% for the two-point DPA loans and 6.375% for the three-point DPA loans.

(00:51:00):

We've subsequently had to increase the rates on the unassisted and the 3% non-targeted rates, not the targeted on the non-targeted rates by an eighth just due to flow of the demand.

I want to provide a little bit of additional color to the Board just because we've been issuing stuff frequently. By all measures, our deals continue to be well-received in the market and our pricing, meaning our all-in rates remains very good. Loan demand remains strong and steady. We're seeing about, we'll call it around $5 million per day in loan reservations. These are much more manageable levels than we've had for the past 15 months or so. This is helpful to us in our efforts to a, maintain a continuous program, but it's also helpful in terms of volume, cap preservation, demand for taxable bonds and therefore the taxable pricing is currently very strong. Our last couple of deals we've done about a 60-40 mix between tax exempt and taxable paper, but we envision increasing the taxable issuance so long as the market is willing to overpay for taxable bonds and give us a little bit better rate.

(00:52:12):

So we have actually started the process for our next issuance. We're expecting to price in late May. I'll be back in May at the May board meeting with the report, the issuance report of expected issuance. But I am exceptionally pleased to announce that we have selected Ramirez to be the lead underwriter on our upcoming deal. Ramirez has been part of the TDHCA underwriting team for several years. The firm, and in particular Austin-based Robin Redford and Laurie Palacios, have consistently provided assistance and guidance to the Department for several years before I ever walked in the door here. So I'm genuinely happy to provide them with an opportunity that they've frankly earned years ago. And with that, I'll close and take any questions that the board may have. Okay,

Leo Vasquez (00:53:02):

Great. No, thanks for that detail and flavor. I'm sure you got that. All those details.

Scott Fletcher (00:53:10):

Got a little bit extra this time.

Leo Vasquez (00:53:11):

So a couple of questions here. So you answered one of my questions that the demand for the bonds, I mean there's not any problem where they're being taken up by the market. Okay, so that's one. And you think that's going to continue to be the case.

Scott Fletcher (00:53:30):

Yeah, we were anticipating, the market was anticipating, that the Fed may come in and start cutting rates with the inflation numbers we got this week. That doesn't appear to be the case. And we do maintain the flexibility on our issuance amounts. If we start to see rates fall off, we would expect a lot of prepayments at some point, but we would see less demand for our program loans. And so we would issue in accordance with that. We're set up so that we have a year to the debt to issue the, I'm sorry, the loans based on the funding from the debt. But we've been running a few weeks to a couple months and until we see changes in that demand, then those demand patterns, we want to try and keep up with it. We want to have a continuous program. I don't want to be in a situation where it's the luck of the draw. I found a house this week and last week TDHCA closed their rates and so I'm kind of pay a market rate rather than take advantage of the opportunity of the program. So our ultimate goal here is to have a continuous program where we continually have funds available for people who are qualified.

Leo Vasquez (00:54:48):

And that touches upon one of my other questions. So you said that about $5 million a day of mortgages were issuing. You said that's sort of an easier to process, I guess.

Scott Fletcher (00:55:00):

Yeah. So for the class,

Leo Vasquez (00:55:01):

The bigger part of that question though, so how is the number of mortgages increased or decreased in that $5 million? I mean, are we doing more number of loans or fewer?

Scott Fletcher (00:55:19):

It's a great question. So what we are typically seeing is around $220,000 a loan. And there's some that are more, some that are less, but that's kind of the average number. And so when you start talking about $5 million in loans, you're talking about call that what, 20 loans a day give or take. And that is off from the levels that we were seeing. And I don't think that average has changed materially because housing prices, et cetera we're, we kind of just call it that 220-ish kind of number. But we were having days where we would see $20 million a day in issuance. And when you're issuing $250 million at a time, $20 million a day, it doesn't last very long. And so we're really pleased for multiple reasons that we've been able, that the market's allowing us to add some taxable paper into the mix and still keep our rates below market. That increases our ability to provide loans for folks, but it also makes it manageable so that we have more people that can participate and it's not a hit or miss situation.

Leo Vasquez (00:56:28):

Okay. So volume wise it's been number of loans has been fairly consistent?

Scott Fletcher (00:56:36):

It's been fairly consistent. I would say its averaging $5 million. We'd have a $12 million day here and there and then we'll have a $4 million day in stuff. So it's kind of right in that $5 million range.

Leo Vasquez (00:56:48):

Okay. And then my last question, has there always been such a difference in the premium paid? I mean you said on taxable or non-taxable is nine plus percent, but taxable is only two plus percent?

Scott Fletcher (00:57:03):

No, it's a great question. The taxable market doesn't like premium and to get any premium honestly on the taxable market is a bit of a challenge. And so where we're getting our premium, it's minimal premium, but we're getting it on the PAC bonds, which not to get too deep in the weeds on what a PAC bond is, but it basically means that depending on what the prepayments are on the mortgages that we buy will determine what the average life is of the loan, of the bonds basically. And so that's where you can get a little bit of flexibility, get a little bit of premium. But all of the term bonds, all of the serial bonds on the taxable deals we issue at par just because that's what the market will tolerate, what will take, we'd issue premium if we could, but the market just is not, it's not a premium-based market.

Leo Vasquez (00:57:51):

Okay, thanks. Any other board members have questions,

Ajay Thomas (00:57:55):

Mr. Chairman? Just a couple of technical ones actually. Given what you just said about the PAC bonds, I mean for whatever reason this year it seems like look at the lack of prepayments, the PAC bonds, there's been some investor pushback on them a little bit, right? So does that concern you that we're not, we may have to go away from issuing as many PAC bonds or,

Scott Fletcher (00:58:17):

So that's a great question. What we've seen, because where rates are and because we've had relatively slow prepayments, our PAC bonds that we've been issuing are 100 on the lower band and 400 on the upper band. We've started to see a lot of pressure and other HFAs have been issuing with a 75 PAC bond, maybe even a 50 PAC bond. When we came to market, we contemplated do we need to do that, but we had the conversations, we explored the market, our RBC did a phenomenal job and as do all of our firms that we work with, we have nothing bad to say about any of them. They're fantastic. But we basically explore the market and say, Hey, this is what we're looking at. What would your pricing be? Where do you think you'd care? And we're not paying a big premium for that higher PAC band.

(00:59:08):
And so until the market starts telling us, no, we're not going to give you a hundred PAC band, you need to come with a 75 or you're going to pay for it, we'll continue to explore it to the degree that it helps our structure. Our goal at the end of the day is to minimize the yield, minimize our borrowing costs so we can provide the best possible rates to our borrowers. And until the market starts punishing us for the structure that we're doing, we will continue to go with where we're going. But it is been brought up on the last two deals.

We have considered a lower PAC band on the last two deals, but our pricing has not been negatively impacted by doing the 100 lower PAC band.

Ajay Thomas (00:59:46):

Very good. And then Scott, just one other question. Given how frequently the agency is in the marketplace, are you involved or your team involved in the allotment process at all with the underwriters to make sure that the investors who do care about TDHCA and are continuing to invest in it are taken care of and so that they'll continue to buy?

Scott Fletcher (01:00:07):

Absolutely. And that's another great question. These are kind of the nuance things that I think it's, it's not readily apparent to folks. We will do order periods. We typically will do a retail order period and then an institutional order period this time we combine those onto the same day. We have priorities set up to make sure that we're taking care of retail as a priority. The priority of our orders is Texas retail, national retail, and then institutional. We do cap our retail to about 50%, certainly on the term bonds and the PAC bonds. Retail investors typically don't buy PAC bonds and probably shouldn't buy PAC bonds. Institutional investors understand them and we are part of the allocation process on every deal. Once the orders come in, they're allocated by the desk given to both TDHCA and our financial advisor Stifel for review and approval to ensure that they're in compliance with our priorities, but also to make sure that we're taking care of new investors, investors that are consistently there. So it's definitely part of the process to ensure that we have a steady pool of investors that are interested in the product and especially in light of, as you said, frequent issuance, you could get fatigue on a name. And so fortunately, we're still in a place where people want TDHCA paper and we continue to have very good demand in the marketplace across the board.

Ajay Thomas (01:01:52):

Great. Thanks Scott. Great job on the transaction and to the team and RBC leading it. I know that for the most part this calendar year state HFAs have had some challenges and not as enviable results as they may have thought or liked. And just given the timing of the market and some of the dynamics of the market, it looks like we caught it at the right time. So good job on your part, shepherding and quarterbacking that.

Scott Fletcher (01:02:21):

Thank you everyone. Anything else?

Leo Vasquez (01:02:24):

Good report. Thank you so much. The detail by the way, Ms. Conroy, did anyone mention to you that we have a quiz at the end of each meeting, so

Cindy Conroy (01:02:33):

I figured,

Leo Vasquez (01:02:37):

Alright, I think we're moving to the part of the agenda where there could possibly be some public comment and input. So just as a reminder, well, Ms. Morales is coming up. If you wish to speak on an upcoming agenda item. I ask that you please come sit in the front couple rows just so I know the pause when we're going to a topic and then we'll go through all the timer stuff after that.

But moving item 17 on the agenda: Presentation, discussion and possible action on Resolution No. 24-013 regarding an issuance of a Multifamily Housing Revenue Refunding Note Series 2024 for Fish Pond at Corpus Christi Apartments, Ms. Morales,

Teresa Morales (01:03:28):

Good morning. Teresa Morales, Director of Multifamily Bonds. Item 17 involves the refunding and reissuance of previously issued bonds by the Department for Fish Pond at Corpus Christi. Fish Pond at Corpus Christi involved the new construction of 112 units serving the elderly population and the transaction closed in 2020. There was an existing development known as Seagull

Apartments that the applicant acquired and plan to relocate the residence of that development into this newly constructed property. The concept of a refunding bond is not something that this board has seen before. The bonds were structured such that they would be initially publicly offered and cash collateralized by Sterling Bank during the construction. Upon conversion the bonds would then be purchased by Circadia and ultimately Freddie Mac, who would be the permanent lender and bond holder at the time of the original approvals. In 2020, we knew that the takeout at conversion would be a Freddie Mac tax exempt loan and that this would happen through a private placement.

(01:04:35):

The structure of this transaction, meaning an initial public offering that would convert to a private placement at conversion was one of many that were contemplated by a couple of different issuers at the time. Given the trailblazer of a transaction that it was, we were not entirely sure of what approvals or other requirements there would be at the time of conversion. So we proceeded under the belief that it would constitute a refunding under state law. It's important to note that none of the terms are changing. The maturity date remains the same and the interest rate was locked. Thank goodness. At the time of the original closing, we are requesting authority to issue up to $10 million. However, there is anticipated to be a partial redemption with the refunding issuance as it relates to where the transaction will ultimately convert. Based on Freddie Mac underwriting, a resizing is not uncommon at conversion.

(01:05:33):

You have a better idea of expenses and rents to determine the loan amount that the deal can actually support. The proceeds from issuing the Series 2024 governmental note will be used to refund the series 2020 bonds in order to convert to the perm phase. As far as the development itself, it is 94% occupied and reached the stabilization benchmark to be able to convert last summer. The delays have mostly been on the business side in getting the bonds remarketed to allow additional time for the lender to complete their due diligence and then also have that dovetail with the equity investors’ requirements for conversion. This delay has also prompted the need for another approval as it relates to the Department's Direct Loan funds that were originally awarded to this development. Given the extensions associated with a construction loan, the construction period associated with a Department's Direct Loan in the form of TCAP should also be extended so that those two are in sync. Staff recommends approval of bond resolution number 24-013 in a principal amount not to exceed $10 million and an extension to the development period associated with the department's direct loan.

Leo Vasquez (01:06:57):

Great. Thank you. So again, just to reiterate, this is the type of project now that, or the structure and refinancing that we do, just as a matter of course,

Teresa Morales (01:07:10):

Correct.

Leo Vasquez (01:07:10):

Back then when we did this first one it was unclear, right?

Teresa Morales (01:07:13):

We were approached with the structure and tried to run the traps with the different approving entities, namely the Attorney General's office, in order to determine if the mechanics of this would constitute a refunding. When the time comes and just given the timeline associated with the bond reservation, we went ahead and closed under the conservative approach that it would constitute a refunding. And so we're going through the process now of getting the approvals associated with that. Since this transaction closed, the Department has brought before this board similar structures because the AG has determined that this concept does not constitute a reissuance. This just kind of got caught in there.

Leo Vasquez (01:07:59):

Yep. Okay. Are there any other questions from the Board on this one? And I assume no public comment, so I'll entertain a motion on item 17 of the agenda.

Holland Harper (01:08:14):

I move the Board approve resolution number 24-013 regarding issuance of multifamily housing refunding note series 2024 and an extension of the development period for Fish Pond at Corpus Christi Apartments, all as described, authorized and conditioned in the board action request resolutions and associated documents on item

Anna Farias (01:08:30):

Second.

Leo Vasquez (01:08:31):

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

All Board Members (01:08:36):

Aye.

Leo Vasquez (01:08:36):

Any opposed? Hearing none. Motion carries. Don't go anywhere. You're still here.

Item 18: Presentation, discussion, and possible action on Inducement Resolution No. 24-015 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 The Legacy on Kiest. Ms. Morales.

Teresa Morales (01:09:08):

Legacy on Kiest proposes the new construction of 180 units in Dallas serving the general population. All of the units are proposed to be at 60% of area median income.

The first step in the process is for the bond issuer in this case, TDHCA, to adopt an inducement resolution that speaks to the Department's intent to issue bonds and provides the necessary authority to submit the application to the Bond Review Board to obtain a reservation of tax exempt bonds. The inducement resolution request is to reserve $30 million in bonds. The inducement is not an approval of the project, it is just an approval to move into the next phase in the process. Staff is considering pursuing what is called traditional carry forward. The Bond Review Board allows applications to be submitted throughout the calendar year under traditional carry forward, and the likelihood of receiving a bond reservation of this type comes down to whether there is any bond volume cap that gets returned between November 16th and December 31st of this calendar year. If so, the applications that have already been filed and are in line will get reserved. We are not the only issuer that tries to access traditional carry forward. There are many others across the state that do so in an effort to maximize the options that are available to try and secure volume cap for a project and provide flexibility in closing the transaction. Staff recommends the adoption of resolution number 24-015 for the Legacy on Kiest in the amount of $30 million.

Leo Vasquez (01:10:47):

Okay, so in other words, we are putting this onto our Department waiting list to effectively get in the state waiting list on bond cap.

Teresa Morales (01:11:01):

Correct.

Leo Vasquez (01:11:03):

Okay. This is on the test as well afterwards.

Is there any other questions for Ms. Morales on this item? Hearing none will entertain the motion on item 18 of the agenda.

Holland Harper (01:11:15):

Move the Board, approve the inducement resolution number 24-015 regarding the Legacy on Kiest, all described in condition of the board action request resolution and associated documents on this item.

Anna Farias (01:11:25):

Second.

Leo Vasquez (01:11:26):

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

All Board Members (01:11:32):

Aye.

Leo Vasquez (01:11:32):

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

Moving on to item 19 of the agenda: Presentation, discussion, and possible action regarding a Material Amendment to the

Housing Tax Credit Application for The Arbor at Centerbrook. Mr. Banuelos.

Rosalio Banuelos (01:11:52):

Good morning. Rosalio Banuelos, Director of Asset Management for the Department. The Arbor at Centerbrook received a 9% housing tax rate award in 2014 to construct 80 units in the city of Live Oak in Bexar County. Construction of the development was completed in 2016, but the development owner has now requested approval for a material amendment to decrease the acreage of the development site from 13.13 acres to 9.72 acres which will result in the release of 3.41 acres from the Land Use Restriction Agreement or LURA for the development. This will increase the residential density of the development by 35.08% going from 6.093 units per acre to 8.23 units per acre. The land that is subject to the terms of the LURA consists of 13.13 acres and all of the building's, parking areas, driveways and all other improvements utilized in connection with the operation of the development are located on approximately 9.72 acres of the development site.

(01:12:52):

The remaining 3.41 acres of land encumbered by the LURA are vacant and the city of Universal City has asked the development owner to sell and convey to the city this vacant portion of land. The owner's representative explained that there is a water tower adjacent to the site and the city would like to acquire the property in question for purposes of rehabilitating the water tower. This land is expected to be used for construction staging and access and it is not anticipated that the rehabilitation will affect the footprint or height of the water tower. Additionally, as part of the long-term master plan, the city would like to purchase the site to be prepared for when the water tower needs to be replaced in the future. It is anticipated that the replacement tower would be built adjacent to the existing water tower and would be approximately of the same footprint and height as the existing tower.

Staff reviewed the original application and scoring documentation against this amendment request and concluded that none of the changes would have resulted in selection or threshold criteria changes that would've affected the selection of the application in the competitive round. In addition, had the land acquisition costs that caused certification been prorated based on the remaining acreage for this development, the tax rate award would not have been impacted. Staff recommends approval of the requested material amendment to the application and if approved, the LURA will be amended to release this vacant land. That concludes my presentation and I'm available for questions.

Leo Vasquez (01:14:16):

So they're not moving the water tower any closer to the development, are they?

Rosalio Banuelos (01:14:19):

Correct. At this time it is anticipated that the land would be used just to access the water tower, so for construction staging and just rehabilitating the tower years down the road. My understanding is that at least 15 years there may be a new tower built adjacent to this tower, but that is not the plan for the moment.

Leo Vasquez (01:14:43):

Okay. What are they going to do with the land afterward? Are they going to make a park or something like that?

Rosalio Banuelos (01:14:49):

We have not been informed. I believe the city has given the developer details about the water tower rehabilitation, but in terms of what the land around it would be used for after that, we don't know.

Leo Vasquez (01:15:03):

Are there any limitations to make sure they don't put a concrete batch plant or something on there or some similar undesirable site feature?

Bobby Wilkinson (01:15:13):

That would be TCEQ.

Holland Harper (01:15:17):

It'd also be a zoning issue based on the local issues.

Leo Vasquez (01:15:23):

Okay. Well we basically have no control over, we would've no influence on what the city could use that site for after they use it as the staging area.

Rosalio Banuelos (01:15:34):

Correct.

Bobby Wilkinson (01:15:36):

Anytime we would release land from a LURA, it's just zoning or other regulations or we're out of it at that point.

Leo Vasquez (01:15:47):

Okay. And again, to clarify, this portion of the property isn't being used at all really by the development

Rosalio Banuelos (01:15:54):

That is right. It is vacant land and it has never been used for the development.

Leo Vasquez (01:15:58):

Okay. Do any board members have questions on this item? Is there anyone wants to speak against the item? Okay. Alright, in that case I'll entertain the motion on item 19 of the agenda.

Anna Farias (01:16:16):

Mr. Chairman, I move the Board grant the requested material application amendment to the Arbor at Centerbrook all is described in the board action request resolutions and associated documents on this item.

Leo Vasquez (01:16:34):

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

Ajay Thomas (01:16:38):

Second. Mr. Chairman.

Leo Vasquez (01:16:40):

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

All Board Members (01:16:44):

Aye.

Leo Vasquez (01:16:44):

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

Moving on to item 20: Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application, changes to the ownership structure, and a waiver of 10 TAC §11.9(b)(2)(A) for Avanti Legacy Rosewood (HTC #22039/23804). Mr. Banuelos,

Rosalio Banuelos (01:17:15):

This development received a 9% housing tax rated award in 2022 and a reallocation of credits under force majeure in 2023 for the new construction of 99 units of which 96 are low-income units for the elderly in Laredo, Webb County. The applicant has now requested approval for a material amendment to reduce the number of units from 99 to 86 by increasing the number of one-bedroom units by one and decreasing the number of two-bedroom units by 14 as originally proposed in the application. This change would result in a revision to the rent and income restrictions from 10 units at 30% of area median income or AMI, 20 units at 50% AMI, 66 units at 60% AMI, and three market rate units to 90 units at 30% AMI, 18 units at 50%, 59 units at 60% AMI and no market rate units.

(01:18:09):

The total number of low-income units would decrease by 10 going from 96 to 86, which is a 10.4% reduction. The change will result in a reduction of 12,664 square feet or 15.37% in the net rental area going from 82,392 square feet to 69,728 square feet. It will also result in a 13.13% decrease to the residential density going from 13.59 units per acre to 11.81 units per acre. There will also be a decrease of 3,995 square feet or 14.92% in the common area going from 26,769 square feet to 22,774 square feet.

The applicant states that the reason for the requested changes is to reduce development costs to maintain feasibility and indicates that without the reduction to the overall size that development is no longer feasible. The applicant cites increased construction costs, increased borrowing costs, and increased operating expenses namely property insurance. The applicant submitted letters of support from the lender and the investor which indicated that the adjustment to the number of units is necessary for feasibility.

(01:19:23):

The applicant also submitted a letter of continued support from State Representative Richard Pena Raymond as well as resolution number 2023-R134 from the City of Laredo which was passed on August 7th, 2023, which states that the city continues to support the development. This documentation is included in the board packet for this item. In addition to the amendment for the redesign, the applicant is requesting approval for changes to the owner's structure which will require a waiver for a requirement related to ownership by a historically underutilized business or HUB. The housing tax credit application for the development received two points because the development was structured to include a HUB in the ownership structure that would have some combination of ownership interest in the general partner of the development owner cash flow from operations and developer fee which taken together equal at least 50% and no less than 5% for any category.

(01:20:22):

The HUB was also required to materially participate in the development and operation of the development throughout the compliance, the applicant is proposing changes to the ownership structure 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 add a special limited partner and move the HUB from the ownership structure of the general partner to the newly formed special ended partner which will be 85% owned and managed by the HUB. The Laredo Public Facility Corporation will be added as the sole member of the general partner and the request that changes to the ownership structure will improve the financial feasibility of the development by providing a property tax exemption. However, this change to the ownership structure would result in the HUB no longer meeting the requirements for the points awarded at application because it will no longer be in the ownership structure of the general partner.

(01:21:13):

Therefore, the applicant is requesting to waive this requirement to allow the development to continue to qualify for the points with the HUB and being in the ownership structure of the special limited partner, the HUB would be continued to meet all of the requirements including the requirement to materially participate in the development and operation of the development throughout the compliance and this revised ownership requirement would be codified in the LURA for the development. The applicant indicates that the special limited partner will be the functional equivalent of a general partner and that this proposed structure results in no change to the development and is just a change in title but not the HUB member's participation. The resolution of support from the City of Laredo states that the city supports the partnership with the Laredo Public Facility Corporation for purposes of obtaining the property tax exemption. In addition to reducing the number of units, the development was underwritten with the proposed amendment and the revised financial information submitted and the analysis supports no change to the housing tax rate at allocation and demonstrates that the development is expected to remain feasible with a 100% property tax exemption. Additionally, staff reviewed the original application and scoring documentation against this amendment request and concluded that none of the changes would've affected the scoring or selection of the application in the competitive round.

Staff recommends approval of the amendment to the application, the changes to the ownership structure and the waiver for the requirement for the HUB to be in the ownership structure of the general partner. That concludes my presentation and I'm available for comments.

Leo Vasquez (01:22:45):

Okay, there's several questions here. Let's break it down the different components. So the reduction in number of units right at that 10% level that we've been approving. I don't really have a problem with that. And then the number of one bedroom units doesn't really isn't restricted because it says,

Rosalio Banuelos (01:23:09):

Senior health, senior development. That is correct.

Leo Vasquez (01:23:11):

Okay, I heard multiple times and I see the resolution from the City of Laredo. Okay, well take a step back. Restructuring to the special limited partner we've been doing frequently now, so that's not really an issue in my mind either. The question that I have though related to that, now we are making this or they, the developer, is making this a tax-exempt project by putting the Laredo Public Finance Corporation in the ownership structure.

Rosalio Banuelos (01:23:52):

Yes, that is correct.

Leo Vasquez (01:23:54):

And then I see a resolution from the City of Laredo saying we supported even dropping from 99 to 84. The number of units 86

Rosalio Banuelos (01:24:07):

Resolution says 84. Yeah,

Leo Vasquez (01:24:08):

Resolution.

Rosalio Banuelos (01:24:09):

The request is for 86.

Leo Vasquez (01:24:09):

So more than that I'm sure they're good. Okay, they're good. Okay. Well I guess it does state in partnership with the Laredo Public Facility Corporation, so that implicitly acknowledges that it's going to be a tax exempt property. I just want to make sure that the City of Laredo understands explicitly that the project they once supported as a taxable project is now going to be a tax-exempt project with this restructuring.

(01:24:49):

Still note the timing on this first, the resolution in the board package occurred before that realization or after

Rosalio Banuelos (01:24:59):

The resolution in the 1, 2, 3, 4 recital states that it would be a property tax exemption

Leo Vasquez (01:25:09):

In the fourth whereas

Rosalio Banuelos (01:25:10):

Yes,

Leo Vasquez (01:25:16):

There you go. I have no further questions. Does anyone else have any other board members? Does anyone want to speak against this question? Okay. Alright, thank you Mr. Flores hearing no other questions. I'll entertain a motion on item 20 of the agenda.

Anna Farias (01:25:42):

Mr. Chairman, I move the Board grant the requested material application amendment changes to the ownership structure and rule waiver to Avanti Legacy Rosewood all is described and authorized in the board action request resolution and associated documents on this item. And as a point of privilege, I want to thank them for building housing for the elderly.

Holland Harper (01:26:08):

Second.

Leo Vasquez (01:26:11):

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

All Board Members (01:26:16):

Aye.

Leo Vasquez (01:26:16):

Any opposed? Hearing none. Motion carries. Thank you. Thank you for doing the adjustments to make it work.

Okay, Item 21: Presentation, discussion, and possible action regarding changes to the ownership structure and a waiver of 10 TAC §11.9(b)(2)(A) for Paige Estates (HTC #21121/23931). Mr. Banuelos,

Rosalio Banuelos (01:26:44):

I'll say this one will sound very familiar but I'll go through all of this again. Paige Estates received a 9% housing tax credit award in 2021 in supplemental credits in 2023 for the new construction of 64 units in Waco in McLennan County. The housing tax credit application for the development received two points because the development was structured to include a HUB and the ownership structure that would have some combination of ownership interest in the general partner cash flow from operations and developer fee. The HUB is also required to materially participate in the development operation as the development throughout the compliance. The owner has not proposed changes to the ownership structure and has requested a waiver of the provision that specifies that the HUB is required to have an ownership interest in the general partner. The owner is seeking to replace the current general partner with the Waco Housing Opportunities Corporation, which is owned by the Waco Housing Authority and the current general partner would become a special limited partner.

(01:27:39):

The request changes to the owner structure along with the ground lease will improve the financial feasibility of the development by providing a property tax exemption. The owner explained that these changes are necessary for feasibility due to construction cost increases, increases in operating expenses, particularly in payroll insurance and property taxes, as well as increases in interest rates and decreases in equity pricing. The owner indicated that the HUB will continue to materially participate in the development and indicated that the special limit partner will be the functional equivalent of a general partner. Therefore, again, this proposed structure results in no change to the development and is just a change in title but not role responsibility or obligation of the HUB member. A resolution of continued support from the City of Waco was provided and is included in the supplemental board packet for this item.

Staff recommends approval of the changes to the ownership structure and the waiver request and I'm available to answer any questions.

Leo Vasquez (01:28:41):

Okay, so my only question again is does the resolution from Waco ... and when I move this to an action item this wasn't available yet. Okay. The development being tax exempt provide for below. Okay. This is pretty standard procedure and I'm assuming that staff and industry understands the feeling of the necessity to make sure that the taxing jurisdictions that are losing this tax potential tax revenue based on this restructurings. It's not the restructuring that's the problem for us, it's just making sure it's transparent that people know and even then we're still ignoring the ISDs in this process, but I think the city knows and the public facilities corporation for that region knows or obviously they don't. We're going to be good with that. Just need that explicit statement and acknowledgement. So I don't have any other questions on this one. Does anyone else?

And Cindy, even if I don't have questions, y'all are welcome to ask questions. Okay. Hearing none someone want to speak against this? Okay, in that case I'll entertain the motion on item 21 of the agenda

Holland Harper (01:30:22):

I move the Board grant the request changes of the ownership structure and rule waive the Paige Estates all as described and authorizing the board action request resolution and associated documents on item.

Anna Farias (01:30:31):

Second.

Leo Vasquez (01:30:32):

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

All Board Members (01:30:37):

Aye.

Leo Vasquez (01:30:37):

Any opposed? Hearing none. Motion carries. Okay, thank you.

Are you, I've been told 22 has been pulled from the agenda, is that correct?

Rosalio Banuelos (01:30:49):

That is correct.

Leo Vasquez (01:30:50):

Okay.

Rosalio Banuelos (01:30:50):

It will be coming back in a subsequent board meeting.

Leo Vasquez (01:30:53):

Okay, so we're passing on item 22. Item 23 is still here, right. Okay. So: Presentation, Discussion, and Possible Action on the draft 2024 State of Texas Consolidated Plan: One-Year Action Plan. Ms. Yevich.

Elizabeth Yevich (01:31:12):

Good morning Chairman, Board, and welcome Ms. Conroy and welcome to our world of acronyms. My name is Elizabeth Yevich. I'm Director of the Housing Resource Center, also known as HRC and I'm here for item 23, which is the presentation and discussion possible action on the draft 2024 State of Texas Consolidated plan, one year action plan. And that one goes by OYAP.

So TDHCA prepares this HUD-required plan along with TDA and that's a Department of Agriculture and DSHS sometimes known as “dishes” and that's Department of State Health Services. As with most documents of this nature, TDHCA is the lead and we coordinate the preparation from start to finish and the plan covers the state's administration for the Community Development Block Grant known as CDBG and that's the one that comes out of TDA and the housing opportunities for persons with AIDS known as HOPWA.

(01:32:17):

That's the one overseen by DSHS and the Emergency Solutions Grant, which is ESG and HOME, which is HOME and the National Housing Trust Fund, not to be confused with the Texas Housing Trust Fund. And those last three programs are all overseen by TDHCA.

So this one year action plan reflects the intended use of funds received by the State of Texas from HUD for the upcoming program year 2024. This particular program year, it'll begin just with our state fiscal year on September 1st, 2024, and on August 31st, 2025. And it also illustrates the state's strategies in addressing the needs and priorities which were set out. And another HUD required document called the Consolidated Plan, that's a five-year plan and that one was long ago approved during the summer of 2020. The good news here, there were no substantial changes at all from the 2023 when your action plan or OYAP.

(01:33:19):

I will add that the Department has not yet received the program year 2024 allocation amounts. Normally we get them around this time. However, the good news is that exactly one month ago on March 11th, Congress passed and President Biden signed into law a fiscal year 2024 package and included HUD. Now as referenced earlier in this meeting, sometimes HUD can be a little slow in getting things out the door. In previous years it takes about 30 to 60 days for them to get the allocation to us then another 30 days. So anyhow, they have guidance for this.

So what is in the draft action plan is ... it's based on the allocations from the previous years. So upon approval today, the draft plan will then become available for viewing off of TDHCA’s Public Comment Center website. It'll go out for the required 30 days, April 22nd to May 22nd, we'll hold the hearing in May 8th. And, of course, all of this is available on TDHCA's new webpage. Following the public comment period, staff plans to present the final plan back to the board prior to having to be submitted to HUD, which is July 18th. And with that, I am recommending approval for release of this draft plan and happy to answer any questions.

Leo Vasquez (01:34:43):

Great, thank you Ms. Yevich. Ms. Conroy, as you'll learn there are all sorts of different plans and different reports that the department has to put out in,

Cindy Conroy (01:34:57):

And the acronyms matter,

Leo Vasquez (01:34:58):

The acronyms I'm still learning, I'm still learning, but you'll see that a lot of these actually do have some really interesting useful information and you have time to go through them.

Cindy Conroy (01:35:10):

I did appreciate reading the report.

Elizabeth Yevich (01:35:13):

Thank you.

Cindy Conroy (01:35:15):

And then I think in the public comment, the only,

Leo Vasquez (01:35:17):

Is your microphone on?

Cindy Conroy (01:35:20):

Generally I am pretty loud and I can't remember the public where people can make public comments obviously on the website, but then also you have some that are throughout the state and different communities. I'm trying to remember if this was right when I didn't open up my iPad where I had yellow notes on everything. So you will be doing, you'll be taking public comment on this throughout the state?

Elizabeth Yevich (01:35:51):

Yes. What happens is once it's released it has to go into the *Texas Register* and then it's released for the 30 days. A listserv goes out off of TDHCA's listserv and so anyone can then during those 30 days we receive public comment by email, by hard copy letter by fax.

Cindy Conroy (01:36:13):

Okay.

Elizabeth Yevich (01:36:16):

And then there will be one hearing as required and we'll be having that hearing on May the eighth and then there would be reasoned response to that comment. If there is comment that would be in the final that we will come back later in the summer. So any reason response would be included in the final plan.

Cindy Conroy (01:36:35):

That was just my, and it really wasn't a question I just said, I was just on the public comment, I didn't know how many of them were in person or just primarily through written response.

Elizabeth Yevich (01:36:49):

That’s a great question. It's changed during the years. When I first started here 15 years ago, we would do a lot more in-person hearings. That was long. I mean email was still sort of just coming to be at that point. We hardly get any in-person at the hearings and I always say it's because we've done a great job, nobody's there to comment and as a rule on a lot of these plans and reports, there's not a lot of public comment, at least on the ones that come through the division, which I oversee.

Cindy Conroy (01:37:16):

Okay.

Bobby Wilkinson (01:37:16):

Now there are certain things we still do in-person stuff when we're developing the Qualified Allocation Plan, which is the rule set for tax credits. We'll do some in-person round tables with the development community, our analysis of impediments to fair housing choice, we'll have four of them in person. So there are some things where we still do a little roadshow but not as much as we used to,

Cindy Conroy (01:37:39):

Generally those draw policy wonks, right?

Bobby Wilkinson (01:37:44):

For sure. For sure. Yeah. They're trained to watch us.

Cindy Conroy (01:37:47):

Yeah. Alright, thank you very much. Appreciate your answers.

Elizabeth Yevich (01:37:50):

You're welcome.

Leo Vasquez (01:37:51):

Are there any other questions from board members? No. Would Ms. Conroy like to make a motion?

Cindy Conroy (01:37:56):

I will make the motion. I move the Board approve the draft of the 2024 State of Texas consolidated plan one year action plan the OYAP for release and publication for public comment, all as described and authorized in the board action request resolution and associated documents on this item.

Leo Vasquez (01:38:15):

Excellent motion. Is there a second?

Ajay Thomas (01:38:16):

Second

Leo Vasquez (01:38:17):

Mr. Chairman. Second by Mr. Thomas. All those in favor say aye.

All Board Members (01:38:21):

Aye.

Leo Vasquez (01:38:21):

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

Moving on to item 24: Presentation, discussion, and possible action on the 2024 Department of Energy Weatherization Assistance Program State Plan and Awards. Mr. Reed,

Gavin Reed (01:38:40):

Hello. Good morning Mr. Chairman, Board members. Gavin Reed, Manager of Planning, Community Affairs division. This is actually similar to the last one in that it's a plan but this has already gone through the public comment. So this is the final draft.

Each year in the spring the Department develops and submits a state plan to the US Department of Energy to administer the Department of Energy Weatherization Assistance Program in the State of Texas. A couple months ago in February, the Board approved the release of the draft 2024 state plan for public comment. The comment period was open from February 23rd to March 13th and a public hearing was held on March 6th. Public comment was received from three stakeholders and is summarized and responded to by staff in Attachment B of this board action item. Also as part of the plan development process, the Weatherization Assistance Program Policy Advisory Council, we call it the WAPPAC, met to review the plan and discuss the public comment and recommended in favor of the plan for 2024. The Department will receive approximately $9.6 million in total DOE WAP funds.

(01:39:57):

This is the annual funding for DOE weatherization. I'll also remind you that we have two other programs that were receiving DOE weatherization funds with through the LIHEAP program and the bipartisan Infrastructure Law WAP program. So this isn't the only weatherization funding we're receiving, but that's the one we're talking about. So the lion's share of this funding for the DOE and approximately $7.3 million provides for the installation of weatherization measures to increase the energy efficiency of eligible homes and that share of funding is allocated to our 21 subgrantees, which are listed in Attachment A.

Now, to answer your question as far as what are some weatherization measures, I'll give you some such as caulking around windows, basically trying to seal air leakage from a home to the outside, attic insulation, wall insulation, duct work, sealing ducts, making sure there's no air leakage, sometimes appliance repair, repair or replacement to get more efficient appliances in the home for HVAC water heaters, patching holes that may exist in a household and basic weather stripping on front door, back door garage door.

(01:41:28):

Funding also provides for state administration training and technical assistance and a weatherization readiness fund which serves to make homes that are otherwise ineligible for DOE weatherization eligible. Approving this action will grant authority to staff to submit the state plan to DOE for their review, make any changes required by DOE, and upon DOE's approval, issue contracts to the 21 subgrantees but only upon completion of the previous participation review and approval process which is currently ongoing and subject to a positive recommendation and any conditions. Contracts will begin July 1st, 2024, last a full year and end June 30th, 2025, and we'll be back here next year about this time for another for 2025 plan. That concludes my remarks and I can answer any questions you may have.

Leo Vasquez (01:42:24):

Thank you. Gavin. Do any Board members have questions on this report item? Okay, great. Well, hearing none I'll entertain the motion on item 24 of the agenda.

Ajay Thomas (01:42:39):

Mr. Chairman, I move the Board authorize the submission of the 2024 Department of Energy Weatherization Assistance Program, state plan and Awards to the Department of Energy and upon approval of the plan to contract for the awards detailed in the plan as expressly conditioned and described in the board action request resolutions and associated documents on this item.

Cindy Conroy (01:42:59):

I second.

Leo Vasquez (01:43:00):

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

All Board Members (01:43:06):

Aye.

Leo Vasquez (01:43:07):

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

I understand item 25 is pulled from the agenda as well, correct? Yes. Okay. Moving to item 26: 26. Presentation, discussion, and possible action on a waiver of 10 TAC §11.9(d) (5) related to Community Support from State Representative for Heritage Estates at Valley Ridge (#24134). Mr. Campbell,

Cody Campbell (01:43:41):

Good morning, and good morning to our new member. It's very nice to meet you. My name is Cody Campbell. I'm the Director of Multifamily programs for the Department.

This item concerns a waiver that been requested for Heritage Estates at Valley Ridge, which is a 9% competitive housing tax credit application that requests $2 million in tax credits for the construction of 92 units in Lewisville. For the benefit of our new member, I'll be providing a little more background information than usual on today's items.

The 9% housing tax credit program is a lucrative program that provides federal tax credits to help finance the development of affordable housing projects. The credits pay out each year for a 10 year period, so the $2 million that we are discussing today has a total credit value of $20 million. Unlike the 4% program, the 9% program is competitive and the competition is fierce each year.

(01:44:35):

The Department undertakes the rulemaking process to produce the Qualified Allocation Plan or the QAP. The QAP is approved by the Board and then signed by the Governor and it includes all the threshold and scoring criteria that are used in the following year's 9% round. One scoring category in the QAP awards points based on support for the developments. State representatives may submit written statements to the Department expressing their support, neutrality or opposition to the project. A timely received support letter is worth eight points. A neutral letter is worth zero and an opposition letter results in eight points being deducted from the application. In the event that no letter is received or if the representative submits a letter stating that no written statement will be provided regarding their stance on the application, then those points are deferred to either the county or the municipality with the same values awarded based on their support opposition or neutrality.

(01:45:32):

There are two important caveats of the scoring category that are relevant to this presentation. First, the QAP makes a clear distinction between a letter that expresses neutrality and a letter that expresses that no written statement will be provided. The neutral letter results in zero points being awarded with no opportunity to score those points elsewhere while no statement allows those points to be scored from the city or county's support. Second, the QAP states very clearly that a letter cannot be amended or withdrawn once submitted to the Department. Prior to the round beginning, the Department received a letter from the state representative of Heritage

Estates at Valley Ridge that expressed neutrality towards the project. Two weeks later but still prior to the due date, a second letter was submitted which explained that the representative had a more thorough understanding of the impact that a neutral letter has on an application.

(01:46:26):

The second letter requested to rescind the first and replace it with no statement which would allow that application to then potentially get those points based on support from the municipality. Because the rules are clear that a letter cannot be rescinded or modified after it is submitted, staff is unable to accommodate this request. Because of these circumstances, the applicant requested a waiver of the rule that prohibits the letter from being rescinded.

The QAP establishes two criteria that should be met in order for a waiver to be approved by the Board. First the applicant must establish that the need for the waiver is outside of their control or is the result of an overwhelming need. And second, the applicant must demonstrate that granting the waiver better serves the policies and purposes as articulated for the Department that are established in Section 2306 of the Texas Government Code.

(01:47:12):

These policies and purposes are broad and include things like providing for the housing needs of low-income Texans and serving as a source of information for the general public. Regarding affordable housing resources, the need for this waiver is obviously not within the applicant's control as the letter in question came from a third party. The second requirement related to better serving the Department's policies and purposes is much broader and much more open to interpretation.

Staff has reviewed this request and is recommending today that the waiver be denied on the basis that the QAP clearly contemplates that a second letter from a state representative might be submitted and the rules disallowed this from happening. Staff is generally pretty conservative in its interpretation and implementation of the rules and because they're so explicit and clear regarding this situation, we are unable to determine that our policies and purposes are better served by this waiver.

(01:48:02):

That being said, if the Board is interested in granting this waiver, there is a pretty direct path to making that happen within the rules. Because the policies and purposes in Section 2306 are so broad, many arguments can be made for just about any given waiver that fit within them. The applicant has made a few such arguments in the request citing several of those purposes, such as providing for the housing needs of low-income Texans, encouraging the development of affordable housing and maximizing the number of affordable rental units added to the state's housing supply as reasons that this waiver should be approved. The issue with these arguments is that they are so broad that they could apply to any application that's submitted and don't specifically apply to this application more than any other. In other words, staff believes that these policies and purposes are served regardless of which application is funded and granting this waiver doesn't appear to serve them any better than not granting it.

(01:48:53):

The applicant would obviously disagree with what I've just said and they may wish to better explain their position to you themselves. Section 2306.0014 does include a specific purpose for the department that the board may find to be applicable to this situation. This purpose states that we are to assist the Governor and the Legislature in coordinating federal and state programs affecting local government. Because a member of the Legislature is involved with this issue and has specifically requested that the Department allow the initial neutral written statement to be rescinded, the Board could determine that granting this waiver better serves our purpose of assisting the

Legislature in coordinating this program. The item in front of you does not result in any funding being awarded and it's really too early in the round to even know whether this application will end up being competitive or not. The issue that you're being asked to vote on specifically relates to whether not the initial written statement should be allowed to be rescinded and replaced with no written statement which would allow the application the opportunity to score these points from municipal support. This concludes my prepared comments and I'm happy to answer any questions that you may have.

Leo Vasquez (01:50:01):

Okay, thanks Cody. So let me try to make sure I'm understanding some of the aspects of this and let everyone understand that despite what I'm about to be the questioning, I'm about to go down. Ignorance of the rule or the law is not an excuse for not following our rules and the laws

Cody Campbell (01:50:32):

Very serious, police officers told me.

Leo Vasquez (01:50:33):

That's the basic once yes premise intent of everything. However, in this case it's the letter that was submitted by a state representative was a freshman state representative who hadn't to my knowledge, hadn't ever dealt with TDHCA and likely her staff hadn't gone through and read about what the significance was of a neutral letter. In this context, neutral is negative, right? Effectively Negative.

Cody Campbell (01:51:11):

Effectively, yes sir.

Leo Vasquez (01:51:16):

And all of these processes, the second letter, the revised letter, was all received before the deadlines of when total packages needed to be submitted?

Cody Campbell (01:51:29):

That is correct, yes sir.

Leo Vasquez (01:51:32):

Okay. So if someone had a typo in the first letter and said, oh, I need to correct this typo, would we have accepted the correction on a, if it wasn't the scoring, if it just something had to be, if we had the wrong, we

Bobby Wilkinson (01:51:47):

Might still be here for a typo.

Leo Vasquez (01:51:49):

Yeah, yeah. Okay. We're still a bureaucracy. I see that right now.

Bobby Wilkinson (01:51:55):

If it was after the first statutes today, afterwards,

Leo Vasquez (01:51:58):

Yeah, that's a whole different story. If this was to me, if it was submitted afterwards, I also do think that the applicant probably should have made very clear to that the state representative what was needed. But I guess, and then finally, I think as you said about the waivers, this is a rule that we're talking about that's not a statute that is correct, correct? At this point,

Cody Campbell (01:52:33):

That is correct. So specifically the rule about rescinding the letter is not mirrored in statute anywhere.

Leo Vasquez (01:52:38):

Okay. So we were free to go either way on this although we, again, I understand we have to set presidents on things like this, but even if we do accept the waiver, this does not mean that everyone doesn't have to follow the rules and the statutes. Does anyone have questions for Cody on this one or,

Anna Farias (01:53:07):

I do.

Leo Vasquez (01:53:08):

Okay, go ahead please.

Anna Farias (01:53:12):

Is this something like the first letter? I'm not sure. I'd like you. And then the second letter is, I think I might like you is that,

Cody Campbell (01:53:24):

I have to be very careful to not ascribe intention to the representative in this case, but my impression is that they had intended to submit a letter initially that would result in the city being able to provide their support and the applicant get those points that way. That's my understanding of the situation as it's been relayed to me and they just didn't understand that a neutral letter would prevent that from happening.

Cindy Conroy (01:53:49):

How are you all asked to, how often does something similar to this happen? Not necessarily with the state representative, how often does that happen?

Cody Campbell (01:53:57):

We receive several waiver requests a year. Waivers have to be submitted by the final application delivery date, which is March 1st of each year. So we know the entire universe of waivers that we'll have for this round. And we got just a handful. This is my third tax credit round and this is the first time that I had seen this particular waiver request, but they're not unheard of. We typically see a few a year.

Bobby Wilkinson (01:54:23):

Before I was ED, we had one from Representative Dutton, but I don't remember if he wanted to change it after the first or not. It was not successful.

Cody Campbell (01:54:32):

And unfortunately

Bobby Wilkinson (01:54:33):

History lesson,

Leo Vasquez (01:54:34):

I can't remember in the last seven years that we've,

Bobby Wilkinson (01:54:36):

This would've been like 2016 or something.

Leo Vasquez (01:54:42):

Are there any other questions? Do we can have some applicant input here and this would give Ms. Conroy the pleasure of hearing the esteems. Mr. Shackelford,

Beau Eccles (01:55:02):

Might have someone speaking against

Leo Vasquez (01:55:03):

And we might have someone speaking against. Okay,

Holland Harper (01:55:07):

Chairman, one question. Yes sir. This letter didn't come direct though it went into the applicant's application, correct?

Cody Campbell (01:55:13):

No, they come to us.

Holland Harper (01:55:14):

Okay. Thank you very much.

Leo Vasquez (01:55:17):

Okay,

Ajay Thomas (01:55:18):

Mr. Chairman, I make a motion that we receive public comment on any or all the agenda items from this point on.

Leo Vasquez (01:55:26):

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

All Board Members (01:55:33):

Aye.

Leo Vasquez (01:55:34):

Any opposed? Hearing none. We shall receive public comment And Ms. Conroy, I know that seems like the most ridiculous motion that we have to make.

Cindy Conroy (01:55:42):

That's okay. I've been on a board plenty of times.

Leo Vasquez (01:55:46):

We call it the “Eccles Rule” for,

Beau Eccles (01:55:50):

Just to be clear, it's in statute.

Leo Vasquez (01:55:56):

Mr. Shackelford, what do you have? What say you,

John Shackelford (01:56:00):

I've got a few things to say. I've tried to be brief, but good morning all of you and Mr. Chairman and members of the Board. Welcome Ms. Conroy and Mr. Wilkinson and Mr. Eccles.

So I represent the applicant and the party requesting the waiver in this instance. Just want to highlight a few things. I thought Mr. Campbell did a great job of setting it up and being very fair in his explanation and do not quibble with what Mr. Campbell had to say about it at all. But I do want to highlight some of the things you brought up Mr. Vasquez and that is this was a freshman rep. Oftentimes you don't get to the representative directly yourself to be able to try to explain fully the impact of the different letters and that kind of thing. So I just want to highlight that this is a freshman rep obviously made a mistake.

(01:56:45):

I was there when we implemented a similar rule like this rule years ago. It seemed like what we were having was, and the reason why the Department came up with the rule was we had post application, full application deadline letters changing and it seemed like we were getting variances between taking one position, maybe negative, and then switching to an affirmative position on supporting something. The variances were quite wide in this instance, sort of what you were bringing up Ms. Farias, that the initial letter was a neutral position. It wasn't negative unfortunately in this instance because of the rules, taking a neutral position is a negative to the applicant on the point scoring item. The second position was just a total withdrawal and as Mr. Campbell pointed out, we don't know her true intention, but she did think that okay, if she took a neutral position with the first letter that if the city approved the transaction, which they did that, then the applicant would get points going that route.

(01:57:46):

And so this isn't a big monumental change in the position of the state rep, in my opinion, where she went from a neutral position to just let me just withdraw then to try to do right. The other thing is this is an elderly deal, 92 93 units, it's in a high opportunity area, which is what we all want is for these developments to be in the better areas. Secondly about that is that other than in 2022 to the same applicant that's got a 48 project under construction now, it's been 15 years since an elderly deal was approved by this board for the City of Lewisville and Lewisville like all the other communities in Texas really, but in the Metroplex area, is booming. A lot of migration into the state, a lot of more elderly people and we think that as Mr. Campbell pointed out in the waiver request, we do think that this satisfies the requirements of a waiver under 2306, 001 and 002.

So if you have any questions for me, glad to entertain them and I will point out underscore again, the letter got corrected before the full application deadline, so we don't have that situation. Thank you.

Leo Vasquez (01:59:07):

Great, thank. Do any Board members have questions for Mr. Shackelford?

John Shackelford (01:59:31):

Thank you.

Leo Vasquez (01:59:32):

Thank you. And just a reminder, I didn't mention the casinos, so we'll have a timer up here in front of you for three minutes that you don't have to use the whole three minutes. And then be sure to identify yourself when you start speaking and sign in before you leave.

Travis Barber (02:00:00):

All right. Good afternoon Board members. I'm Travis Barber, representing the developer for the Heritage of Estates Valley Ridge project. I just wanted to mention a few additional points related to some of the community support efforts that we put into this project. This is the second time we submitted this application. We submitted it last year and we had full support then. We submitted it again this year and obviously we had this issue with the state representative that was unforeseen. We've hosted neighborhood meetings, met with city staff, city council members placed an emphasis on community support throughout the process. The city of Lewisville voted unanimously and spoke highly of supporting this project. As Mr. Shackelford mentioned, there's a huge need for affordable housing. Our market study indicates a gross capture rate of just 2.5%, and this is the only full application still remaining in this round for the city of Lewisville.

(02:01:00):

When we notified the city about the letter of neutrality, they were just as caught off guard as we were. Our team, as well as the manager of the neighborhood services department and the city manager, Claire Powell, met with Representative Thimesch and her chief of staff to discuss the letter of neutrality. Ultimately, it was determined that the representative and her staff were unaware of the implications that a letter of neutrality carried for the project. Within a couple of days on February 29th, prior to the application due date, a second letter rescinding the initial letter was submitted and turned in with our full and complete application. To have this deal lose out on these eight points, it would eliminate the project from being competitive and it would be unfortunate that it was at the mistake of a freshman Texas representative and that we weren't able to correct the issue prior to the application being submitted. And I'll just end by urging the Board to consider the intent 10 TAC, section eight, section 11.8 D titled Community Support Engagement, and ask the question, did the project have or not have the community support required at the time of the application in order to receive the full eight points? We had it. That was our opinion. So thank you all. I appreciate your time and I want to say thanks to staff and Cody, we really appreciate all's help on this project and all of our other projects, so thank you.

Leo Vasquez (02:02:28):

Great. Thanks Travis. Anyone have questions for speaker? Do you want to add more, Audrey?

Audrey Martin (02:02:38):

Good afternoon everyone. I'm Audrey Martin with Purple Martin Real Estate. I'm here with the applicant team and I'm in support of the Board granting the waiver in this case. Everyone's kind of made all the relevant points. I just wanted to reinforce that the provision that we're asking to have waived is non statutory. So I think that historically, as Mr. Shackelford mentioned, the Department has had to deal with some challenges with state representatives and before that even state senators changing their positions. I think most often that historically would happen post March 1st. And that was kind of the genesis of this provision of the QAP that requires now requires that a state representative cannot rescind a letter. And I understand the reason for that. Certainly anything that happens post March 1st I don't think should be considered. But in this case, just to reinforce, it's our position that the state representative was able to clarify their position in advance of that March 1st, that hard application deadline. So we hope that you take that into consideration. So thank you.

Leo Vasquez (02:03:53):

Thanks Audrey. Mr. Campbell, do you have anything to add?

Cody Campbell (02:04:07):

I believe it's all been said.

Leo Vasquez (02:04:09):

Okay. I just want to make a statement because I'm the old man on the board. I guess. If this had happened, if all the changing the letter happened after the first, I might be a little more skeptical. However, this whole situation reminds me of back when I first came on board, it seemed like the Department was set up to eliminate projects and applications before it got to scoring. And before we saw how it all, where people landed at the end, and as everyone hopefully remembers, the phrase that we had to use back then was it seemed like a “gotcha” moment. This to me falls pretty much in that “gotcha” moment that the intent clearly was unintentional for the, and it got replaced. It was all done before the deadlines. I understand where the staff, you have to follow the rules and that's why it comes to the Board to see if, okay, are we going to waive the rules? So in my mind, if we denied the waiver, this would be a “gotcha” moment that we were kicking. Finally, we found a way to kick someone out early rather than just seeing how the process plays out. Sure, but I'm not trying to influence anyone's vote. Does anyone care to make a motion?

Anna Farias (02:05:47):

Motion

Leo Vasquez (02:05:47):

Motion?

Anna Farias (02:05:48):

Yes, Mr. Chairman, I move the Board grant the requested waiver of the portion of 10 TAC 11-9 D 5 A that prohibits the change or withdrawal of a state representative letter once submitted to the department, even, even the actions described in the board action request and associated documents on this item.

Leo Vasquez (02:06:15):

Great. Thank you Ms. Farias. Is there a second?

Holland Harper (02:06:18):

Second.

Leo Vasquez (02:06:19):

Seconded by Mr. Harper.

Is there any further discussion? All those in favor of granting the waiver given the faxes described in the board action request, say aye.

All Board Members (02:06:32):

Aye.

Leo Vasquez (02:06:34):

Any opposed? Gotcha. Motion carries. Thank you. Okay, item 27. Thanks. Are you still here, Cody?

Cody Campbell (02:06:47):

Oh, you've got me for a minute.

Leo Vasquez (02:06:48):

Okay. Alright, well then your name's not okay. Alright.

Item 27 of the agenda, right? Yeah. Okay. Presentation, discussion, and possible action on multiple requests for return and reallocation of tax credits under 10 TAC §11.6(5) related to Credit Returns Resulting from Force Majeure Events for Applications previously awarded 9% housing tax credits.

Cody Campbell (02:07:18):

Thank you. As Mr. Vasquez just said, this item concerns three developments that have requested force majeure treatment under the QAP. When an award of 9% housing tax credit funding is made to a development which typically occurs in July of each year, the developer has until the end of the second year following that award to place the development in service, which means that construction is completed and the housing is available for occupancy as is typically demonstrated with certificates of occupancy. So if an award is made in July 2024, the applicant has until December 2026, the end of the second year following, to have the development move in ready. Failing to meet this deadline results in the credits being terminated. And because the deadline is federal, the Department has no authority to extend it. As a workaround, our QAP includes the force majeure provision, which allows for applicants to return their initial award of credits and have them immediately be reallocated back to them.

(02:08:14):

This essentially resets the clock on the deadline. This requires board approval and the QAP provides specific circumstances that would be considered force majeure events such as fire, changes in rules, law or regulation, supplier failures and material or labor shortages. In years past, it has been rare for an application to get forced majeure treatment and the vast majority of tax credit awards placed in service timely. When the pandemic hit, this changed rapidly as essentially all projects that were in the pipeline at the time were suddenly unable to meet tight federal timelines due to supply chain issues, labor shortages, and everything else that comes with a global shutdown. While the rate of requests has slowed since then, we are still seeing far more of these requests than we used to. And while there is a general sense of fatigue at all levels of this process regarding these requests, staff continues to evaluate them on an individual basis.

(02:09:08):

In other words, the fact that so many requests have been received over the last few years does not affect our evaluation when a new request comes in. This item concerns three applications in Harris County that were awarded tax credits in either 2022 or 2023. Those applications are Kirkwood Crossing, Saddle Creek, and Lost Oaks. Each of these has experienced significant financing gaps and as a result, each applied for a type of American Rescue Plan funding called HOME ARP from Harris County. To help you understand how a financing gap could appear in a project, there's all kinds of ways. Obviously material costs going up, construction costs going up, but there is an added component with a tax credit development, which is the equity pricing on those tax credits. So we award tax credits to the developer. They sell those credits on the market through a syndicator. Typically they get in good times about 92 cents on the dollar.

(02:10:00):
If you're dealing with a total credit value of $20 million, a nickel reduction in your equity cost reduces your equity in the development by about a million dollars. So a very small change in your equity pricing can very quickly create a significant financing gap in the development. So these deals all applied for HOME ARP from Harris County. The applications for that HOME ARP funding were submitted when the funding became available towards the end of 2023. And all three have experienced delays related to the review and administration of those funds as the county has worked through the difficult process of administering the program while complying with the extensive and quite frankly Byzantine requirements of federal fund sources.

Staff has reviewed the three requests in front of you today and has determined that each meets the standards established in the QAP regarding force majeure. Specifically the changes in laws, rules or regulations that have occurred as Harris County has ironed out the funding source that is necessary in order for these developments to close and work towards placing in service are force majeure events that could not have been mitigated or prevented by the applicants. Realistically, there's no way you could apply for a federal fund source at the end of 2023 and place in service by the end of 2024. There's just absolutely no way that that will ever happen.

Staff recommends that the Board approve this item and I'm happy to answer any questions that you may have. The one thing that I would add that I didn't write into my presentation is that you are not bound if you approve this request to approving the full extension. So typically when we reallocate the credits, it totally resets the clock and they would have until the end of the second year following this year to place in service. If the Board does want to approve these requests but does not want to give the full extension, you do have the opportunity of providing a shorter deadline than the full two years. So I'm happy to answer any questions you may have.

Leo Vasquez (02:11:44):

So where do these three projects stand on getting Harris County's processing done with HUD?

Cody Campbell (02:11:50):

That is a great question. One of them is still working on getting permits to have permits, but until they get the financing, they can't close. Harris County is working through their procurement processes right now and is working on issuing guidance on how these applicants need to comply with procurement on those funds. And we are all sort of at the mercy of that process to see we'll be able to get started.

Leo Vasquez (02:12:16):

So there's not a time certain that for any of them on when they're even going to get started on construction,

Cody Campbell (02:12:24):

One of them estimated August of this year to close on that financing, which would then allow them to get started. But I don't know how reliable that date is.

Leo Vasquez (02:12:37):

Okay. Well as frustrating as that sounds and as embarrassed I am to be a Harris County resident, the staff feels confident that this really isn't in the control of the applicants.

Cody Campbell (02:12:54):

Oh, absolutely. And as an agency that administers similar funds, I'm sympathetic to Harris County. They're difficult.

Leo Vasquez (02:13:03):

Okay. Do Board members have questions on this item for Mr. Campbell? Staff recommends to grant the force majeure in this case?

Cody Campbell (02:13:14):

Yes sir. Yes sir.

Leo Vasquez (02:13:15):

Okay. And then extend till when end of 26.

Cody Campbell (02:13:18):

In this particular case, it is almost certainly going to require the full extension if these three close in August of 23.

Leo Vasquez (02:13:24):

And that starts end of this year, right? Correct. Okay. Anyone care to make a motion? Mr. Harper?

Holland Harper (02:13:30):

Move the Board to grant the requested treatment of the application of force majeure rule to Kirkwood Crossing, Lost Oaks in Saddle Creek Village, all as described and authorizing the board action request resolution and associated documents on this item.

Anna Farias (02:13:43):

Second.

Leo Vasquez (02:13:43):

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

All Board Members (02:13:48):

Aye.

Leo Vasquez (02:13:49):

Any opposed? Hearing none. Motion carries.

On Item 28 of the agenda. Similarly, but different: 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 Magnolia Lofts. Mr. Campbell.

Cody Campbell (02:14:18):

So as Mr. Vasquez said, this concerns a force majeure request for Magnolia Lofts, which received its initial award of credits in 2021 and is supplemental award of credits in 2023. The supplemental award reset the clock for placing in service so the current deadline is December of 2025. The developer has also applied for additional funding from the Department's National Housing Trust fund, which is a federal program that has a similar level of regulatory complexity as the HOME ARP funds from the last item. The Department is in the process of closing on those funds. We've already had a contract issued, it's been signed, we're working towards closing, but due to the unusually complex ownership structure of this project, negotiations on that closing have taken longer than would be typical. JPS Hospital currently owns the land and an affiliated public facility corporation serves as managing member of the general partner.

(02:15:08):

The current issue that we're trying to work through regards the interest in the land while the hospital district is willing to enter into a ground lease with the PFC for the land, they desire to then sublease that land from the PFC to the borrower. In discussions with HUD, TDHCA has determined that the PFC must assign its interest in the ground lease to the borrower rather than subleasing it. We are continuing to work through this issue. As of today, the hospital has not agreed to assign its interest. TDHCA legal is working with the applicant's legal team and HUD is also involved in these discussions trying to figure out a solution. We are confident that we are going to find a solution in the near future and once that happens, the loan will get closed and the development can move towards placing in service. The development has already received its permits from the City of Fort Worth, so working out this loan closing is the last significant step before these folks can get started on construction.

Similar to the last item, staff recommends approval for force majeure treatment. This one I would guess would probably also need the full extension because once they close on the loan they're going to be starting construction again. They've got their permits already, they're ready to get started, but most construction timelines that we're saying right now are 16 to 19 months and so to allow them to place in service they would likely need the full two years. We recommend approval and I'm happy to answer any questions you may have.

Leo Vasquez (02:16:29):

Maybe there's something that needs to be added. Ms. Sylvester?

Cody Campbell (02:16:32):

Thank you Megan.

Megan Sylvester (02:16:33):

Sorry, Megan Sylvester, Deputy General Counsel, but in here in my role as federal compliance counsel. I just wanted to emphasize that extending, and this is in your board write up, but I want to emphasize that extending this definition of placed in service does not extend the deadline under the NHTF program, which will be a little bit sooner so they won't have the entire timeframe because the time clock on those funds have already started to run when we issued a contract.

Leo Vasquez (02:17:12):

Okay, so this was a 2021 original application and then we did supplementals?

Cody Campbell (02:17:21):

Yes sir.

Leo Vasquez (02:17:22):

We did supplementals in 22 or 23.

Cody Campbell (02:17:31):

23

Leo Vasquez (02:17:31):

When I was first going over this last week, I thought that for an applicant to even submit a project, they needed to show control, contractual control of the property.

Cody Campbell (02:17:47):

Sure. So have,

Leo Vasquez (02:17:49):

This is still, I mean after all this time this is still not settled.

Cody Campbell (02:17:53):

Sure. So they have site control, they have the ability to build on the land. The issue that we're running into is that we have to make the loan to what HUD considers to be the borrower and if the PFC or I'm sorry, we have to make the loan to the owner of the development and if the PFC is subleasing the land, which for our purposes we do consider to be site control, HUD doesn't consider that sublease to be ownership of the property. So if we make the loan to the borrower, they believe that we are making a loan to somebody other than the owner of the property which is disallowed federally.

Leo Vasquez (02:18:29):

And a long-term ground lease does not count. I mean how long were, I assume it's a 50 year, 99 year or something like that?

Cody Campbell (02:18:39):

So if the PFC assigned their interest in the ground lease to the borrower, then that would be sufficient. But if they sublease that land to the borrower while they hold the ground lease, that for federal purposes is not considered to make them the owner of the property.

Leo Vasquez (02:18:53):

And if they make the assignment of the lease to the borrower,

Cody Campbell (02:18:57):

That is correct.

Leo Vasquez (02:18:58):

Do they still have their tax exempt status from the PFC?

Cody Campbell (02:19:02):

We are getting a little out of my depth here. Megan, would they still have their, I apologize, I'm a program,

Leo Vasquez (02:19:08):

I thought you had all

Megan Sylvester (02:19:09):

No, this is just really, really complicated and in the weeds. So I think that is the concern of the PFC attorneys and that's why we have sort of come to an impasse on this deal. I think they are also researching, they had indicated that it be possible to have a different kind of structure but that's going to take a lot of time on the hospital district side. So they have said that this is another reason on that because right now the tax credit deadline is before the NHTF deadline and by extending it, that would give us a little more time to work out these issues.

Leo Vasquez (02:19:47):

Okay. And the current deadline tax credit deadline in place right now is end of 25?

Cody Campbell (02:19:54):

That is correct, yes sir.

Leo Vasquez (02:19:57):

I'm just a little uncomfortable with us giving these extensions and approvals without really knowing what the final structure is of this deal. Do we have to decide right now?

Cody Campbell (02:20:17):

Well

Leo Vasquez (02:20:18):

Today

Cody Campbell (02:20:18):

I believe that the applicant will speak to this. I think that an issue that they're going to run into is that they can't close on their financing without this extension because any investor that's looking at this property right now is saying it's clearly so,

Leo Vasquez (02:20:28):

You're not going to get done in time.

Cody Campbell (02:20:28):

Yeah, it's not going to get it done on time. It's an empty investment basically.

Leo Vasquez (02:20:34):

Do we have, and maybe the applicant will help, do we have any kind of date certain as to when all of this is going to get resolved?

Cody Campbell (02:20:41):

No sir. I do know that they are working with HUD directly. TDHCA legal has proposed a potential solution to them. It does feel like we are nearing a resolution to this, but I can't responsibly give you a firm date of when it will happen.

Leo Vasquez (02:20:57):

So at what point if we think they're not going to get all the HUDs PFC stuff figured out, at what point can we say give the credits back? I mean if we extend it today until the end of 26.

Cody Campbell (02:21:14):

So they are entitled to their credits until they're not. So there are a couple of areas in statute that do allow the Board to revoke a credit allocation. So if they request a material amendment and the Board doesn't want to move forward with that material amendment, at that point you can say no and we're taking the credits back. In this particular situation because they have a valid carryover, they could voluntarily give the credits back if they didn't think that the development was going to be able to continue. But they could also hold onto them until they failed their place in service deadline if they really wanted to.

Leo Vasquez (02:21:46):

And we have the name of the developer, right?

Cody Campbell (02:21:48):

Yes.

Leo Vasquez (02:21:49):

Okay. Alright. Does anyone have questions for Mr. Campbell or do you want to hear from the applicant developer representative, Max, come on and tell us, give us a little more flavor.

Max Whipple (02:22:09):

Can you hear me all right? Yep. Good afternoon. Max Whipple, Vice President of Development with the NRP Group. This project's a little bit different than most in that instead of partnering with a housing entity, we decided to look outside the box and look at how we can merge housing and healthcare and partner with the Tarrant County Hospital District, the taxing hospital district in Tarrant County. And so we've been working on this project since 2021, similar to a lot of those 20, 21 9% applications that you guys saw over the last few years. We dealt with a lot of cost issues and that led us to submit to the agency for the NHTF funds in early 2022. Those were approved by the Board in May of 2023, which is about the time we received our building permit. And we've been working with staff since that time.

(02:22:55):

As the last item to get this project closed, we were, again, this is a unique structure working with the hospital district. So we were alerted in actually February of this year that there was an issue with this structure being a sublease structure and that it had come up with the agency in the fall of last year on another project. And so at that time we've worked with the hospital district because the hospital district, again, their board governs both of those entities, both the hospital district board and the PFC are made up of the same members. And actually today, in nine minutes, the hospital district will be approving the transfer of that land to the PFC, which will allow us to utilize a similar lease structure to a normal 9% transaction. So again, as soon as we're able to get this closing consummated with the department, we're ready to close and start construction.

(02:23:45):

We've had our building permits, we've extended 'em with the City of Fort Worth for about a year and are anxious to get going. We've had questions come up from our investor and lender about the timeline and again, Cody mentioned it very well, but it's about an 18-month construction schedule and starting today we would be butting into that December 31st, 2025, date. So that's why we're here requesting the extension to the place and service deadline. Again following the approval today, we're adamant that we can get this project closed in the next 30 to 60 days working with staff reverting back to a structure that's very similar to what we've worked on in the previous transactions.

Leo Vasquez (02:24:23):

Okay. So all this assignment of interest from the PFC to the hospital district, all of that stuff is about to be approved today, correct? To the satisfaction of HUD or who else do we need? Who is this Megan?

Megan Sylvester (02:24:47):

Well I just learned like you did that you guys were going forward. That had not been communicated to us or at least not to me had been. So that's great. That's the solution that we were working towards. It was one of the possibilities that we had discussed back with your team. So are you saying that the PFC is now going to be the fee title owner?

Max Whipple (02:25:00):

Correct.

Megan Sylvester (02:25:02):

And then we're going to have just our normal ground lease between the PFC and the borrower?

Max Whipple (02:25:10):

Yes.

Megan Sylvester (02:25:11):

Okay. Then that on paper we'll need to see the documents, but on paper that would seem to meet HUD's requirements.

Leo Vasquez (02:25:22):

Okay. So that,

Beau Eccles (02:25:23):

It's great to watch the magic happen.

Leo Vasquez (02:25:27):

That was one of my first questions. Okay. Assuming that's all getting approved and done and we don't, so we do have a time certain basically then that makes me feel much more amenable to doing this. On the extension date deadline though, there's still the housing trust fund. You said it's before the end of 26?

Cody Campbell (02:25:52):

Sure. So there's a four-year project completion deadline that starts whenever we sign that.

Leo Vasquez (02:25:57):

You're getting shaking head there.

Megan Sylvester (02:25:58):

It's HOME.

Cody Campbell (02:25:59):

HOME is four years. Sorry Megan.

Megan Sylvester (02:26:03):

Sorry I don't have the documents in front of me, but it's actually, it's basically three years from when they sign the contract. It's a little bit longer. We signed the contract right before the obligation deadline, but placed in service does not have the same meaning as project completion. So they could still be doing some things that qualify as placed in service after they would be have a project completion and be able to draw down those last remaining funds, which is the date that's in the contract, and that the department would then be able to close out the project in HUD's computer system. There could be some things for record keeping, cost certification, finalizations, that sort of thing that could be still being done after that date.

Leo Vasquez (02:27:02):

Well, I guess what I was getting at, should we set up our approval date to match the federal date or does it?

Megan Sylvester (02:27:10):

I don't think that it’s necessary. I just wanted to make the borrower aware that the requirements of the NHTF program will need to be satisfied from an earlier date. So for example, they will need to have their compliance a review for the inspire and the accessibility and have all of those corrections made by the time that the department has to report that date as complete in IDS and give the information to the department about who is living there. Their project completion is just a different definition of what they have to do to be done from HUD's perspective than place in service from the IRS. They're just two different definitions.

Leo Vasquez (02:28:11):

Okay. Does anyone else have questions or does anyone else want to speak on this? Now that we have this revelation that we have a date?

Cindy Conroy (02:28:26):

This might be a silly question, but if we approve, we're working on the assumption that in five minutes they approve it, but what if they don't? I've always operated in looking at every scenario.

Leo Vasquez (02:28:41):

I assume the project's dead at that point. I mean they're not going to be able so

Cindy Conroy (02:28:47):

It won't matter.

Leo Vasquez (02:28:48):

Yeah, it won't matter.

Max Whipple (02:28:49):

Okay,

Cindy Conroy (02:28:50):

I just wanted clarity on that.

Max Whipple (02:28:51):

Absolutely and it's a great question. So we honestly, for the last four or five months, both us and the Department and staff have been working on kind of an dual path approach, which was both working with the hospital district to just transfer the land to their PFC. Again, the board members are made up of the same members of the hospital board, but again it's an entity that does not have housing experience. So this is a little bit more of a complicated concept for them. We've also been working with folks at HUD because we believe the structure is compatible. We just haven't had the ability to get in front of HUD as much as we'd like to. So in the event that this isn't approved, I mean we've had thorough discussions with the hospital district and don't see any reason it will not be approved in three minutes, but if in the event that is not approved, we would continue to pursue the path with HUD to revise the structure or look at an entirely alternate structure that would work within both TDHCA and HUD's guidelines.

Leo Vasquez (02:29:48):

And just so you know, NRP Group is a major nationwide developer and so they're very experienced and they got smart guys and girls working there.

Okay, I'm prepared to accept a motion. A motion on item 28 of the agenda Mr. Harper.

Holland Harper (02:30:12):

I move the Board grant the requested treatment under the application of force majeure rule to the Magnolia Lofts all as described and authorized in the board action request resolution and associated documents of this item.

Anna Farias (02:30:20):

Second.

Leo Vasquez (02:30:20):

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

All Board Members (02:30:26):

Aye.

Leo Vasquez (02:30:27):

Any opposed? Hearing none. Motion carries. Alright, very good. Fantastic. Everyone inform staff whenever there's new information that, okay.

Continuing with Mr. Campbell on item 29 of the agenda: 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 The Roz.

Cody Campbell (02:30:58):

Thank you Mr. Vasquez. This one is pretty standard.

The Roz received its initial award of tax credits during the 2023 round, which means they must place in service by December, 2025. Construction of this development has been held up by an unusually long permitting process with the City of Austin, which the applicant currently expects to be resolved by July of this year. The applicant has hired an experienced construction firm which is currently estimating a 16- to 19-month construction timeline due to the volume of construction in the Austin area with their request.

The applicant provided a letter from the construction firm which states that over the past several years, Sky Beck, which is the construction firm and the Austin Development community, have witnessed extreme delays with regards to Austin's development services due to the unprecedented number of development permits and review. In addition, the inability of Austin Energy to provide timely design consultation to developments and equipment and power to our sites has seriously impacted all of our project's construction schedules because these permitting delays could not have been prevented by the applicant's staff recommends approval of this item.

I understand that this presentation was very short but there's just not a whole lot to say about it. It's taken them way longer than would've been expected to get their permits from the city of Austin that has held up construction. They're hoping for July to have them in hand and then 16 to 19 months to finish construction and place in service. Unfortunately that pushes them just a little bit past the current deadline.

Leo Vasquez (02:32:24):

So this is permit space. It's not long lead time for electrical equipment.

Cody Campbell (02:32:31):

The next one has that problem.

Leo Vasquez (02:32:33):

Okay, I'm getting them confused. So how far do we need to extend?

Cody Campbell (02:32:43):

I bet this one could do it with a year extension.

I think that we've got somebody here from the development team who is nodding in agreement. We could maybe do a year on this one,

Leo Vasquez (02:32:55):

Which would be end of,

Cody Campbell (02:32:56):

26.

Leo Vasquez (02:32:59):

Yes sir. Okay. Does anyone have questions for Mr. Campbell on this one? Staff recommends approving this extension.

Cody Campbell (02:33:14):

Yes sir.

Leo Vasquez (02:33:15):

Anyone care to make a motion to that effect?

Beau Eccles (02:33:20):

To be clear though, staff's recommendation was not specific as to the year, so it would extend it out two years.

Cody Campbell (02:33:26):

Correct. Unless the Board in their motion limited it further. Thank you.

Leo Vasquez (02:33:34):

I still entertain the motion. Mr. Thomas?

Ajay Thomas (02:33:36):

Mr. Chairman, I move the Board grant the requested treatment under an application of the force majeure rule to the Roz all as described and authorized in the board action request resolution associated documents on this item.

Leo Vasquez (02:33:49):

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

Anna Farias (02:33:51):

Second.

Leo Vasquez (02:33:51):

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

All Board Members (02:33:55):

Aye.

Leo Vasquez (02:33:56):

Any opposed? Hearing none. Motion carries.

Continuing right along the item 30: 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 Hughes House. Mr. Campbell.

Cody Campbell (02:34:17):

Thank you. This is our last force majeure request of the day and it concerns Hughes House in Fort Worth which received its initial award of credits in 2021 and a force majeure extension in 2022, which means that the current deadline to place in service is December of this year. The applicant has had significant difficulty in obtaining electrical equipment that is necessary to energize the buildings and complete construction. The current estimated delivery time of this equipment is October of 2024, which does not leave enough time to place in service by the end of the year. The applicant has explored all reasonable options for obtaining this equipment sooner, some of which I think are very interesting, especially this first one, including having the equipment manufactured locally. So they tried to hire somebody to just build the stuff that they needed and it didn't work out exploring alternative sources for the equipment and paying a premium for it. But the applicant has represented to the Department that the equipment is simply unavailable until October. Staff has reviewed this request and determined that material and supply shortages do qualify as a force majeure event under the QAP and therefore recommends approval of this item. I think this is one that could comfortably do it in a shorter period of time than the two years that would be standard. I believe that they could probably knock it out with a year extension.

Leo Vasquez (02:35:32):

Okay, so as construction actually began on the, okay, so, and I know we've seen similar delays, especially on the electrical equipment on other projects and this, y'all are confident it's the same situation and made efforts to obtain it?

Cody Campbell (02:35:52):

Nothing about it seems unusual,

Leo Vasquez (02:35:54):

Mr. Harper, is it still hard to get electrical transformers?

Holland Harper (02:36:02):

I have a ... it looks like you have a meter problem in this project specifically, but yeah, switch gear, it could be a problem what you're doing. I've got a shop that's making my own switch gear, which I'm not going to tell any of y'all, but No, it's,

Leo Vasquez (02:36:19):

Yeah, it's still, I've heard just not related to this, but generally the same problems. Okay, well unfortunately this is not a unique situation that they're in, so does anyone wish to speak? Did staff make an actual recommendation on this one?

Cody Campbell (02:36:40):

Yes sir. We recommended approval.

Leo Vasquez (02:36:42):

We recommended approval. Does anyone wish to speak against approval? Barry's always negative. He doesn't want speak. Okay, so if not, I'll entertain the motion on item where 30 of the agenda

Anna Farias (02:36:57):

I move the Board grant the requested treatment under an application of the force majeure rule to Hughes House all is described and authorized in the board action request resolution and associated documents on this item.

Holland Harper (02:37:12):

Second.

Leo Vasquez (02:37:14):

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

All Board Members (02:37:18):

Aye.

Leo Vasquez (02:37:19):

Any opposed? Hearing none. Motion carries.

Item 31. This one's a little different right: Presentation, discussion, and possible action on a determination of eligibility related to Undesirable Site Features for Palms at Morris (#24124) Mr. Campbell.

Cody Campbell (02:37:45):

Thank you Mr. Vasquez. This is the last item of the day. I'm going to show my hand of what a nerd I am, but I think this is a really interesting item. It relates to a determination of site eligibility for the Palms at Morris, which is a 2024 9% housing tax credit application located in Corpus Christi. The QAP establishes a number of undesirable site features that generally render an application ineligible unless acceptable mitigation is undertaken. Acceptable mitigation is up to staff or the Board's discretion. These undesirable site features include things such as close proximity to landfills, heavy industry, or being within two miles of a refinery that is capable of refining more than a hundred thousand barrels of oil a day, which is what this item concerns. The proposed development site for Palms at Morris is located within two miles of three refineries in Corpus. The applicant has requested that the department find the site to be eligible despite the presence of these refineries and has provided HUDs minimum acceptable separation distances as well as a letter from the City of Corpus as supporting documentation for this request.

(02:38:52):

HUD's minimum acceptable separation distances do not directly apply to the Department's programs, but they are informative in helping understand what sort of separation the federal government would require from a refinery. An environmental services firm hired by the applicant provided a letter with the request that documents these required distance and the furthest minimum separation that HUD would require is about 1200 feet. For all of the required distances. The development site in question is about eight to 10 times further away than the minimum. And if you check one of the last pages of your board book, and I'm so sorry, I usually have the page number in your board book and I don't today, but it's one of the last pages, is a letter from the environmental services firm that has the calculations of the minimum distances. There's four of them. So for the Citgo refinery as an example, the largest distance that they would have to be away is 1,167 square feet.

(02:39:48):

The distance is actually 8,294 square feet and as you go down the table you see all of these are 7, 10 times further than they have to be away from it. So the development site meets HUDs minimum acceptable separation distances. In addition to that, a letter from the city was also provided, and I believe that's very useful as it establishes that the development would be acceptable to the city and more importantly that the area of corpus in question is a prominent area of the city that includes existing residential developments, the downtown urban core city hall, the county courthouse, and many major tourist attractions such as museums, parks, and the aquarium. The QAP is very clear that existing zoning is not considered sufficient mitigation for an undesirable site feature, but just like the federal government's minimum acceptable distances, this information is useful in helping understand what you're being asked to vote on

(02:40:42):

Because the QAP is clear that development sites must be at least two miles from large refineries and mitigation for this type of feature is vague and undefined staff declined to make a determination on whether this site is eligible and is instead presenting the matter to the board for decision. Because as mentioned earlier, staff is generally conservative in its application of the rules, our recommendation is that the Board finds the site ineligible due to the presence of the undesirable site features. That being said, should the Board want to find the site eligible, there is a very clear path within the rules to do so. Many of our undesirable site features do exist due to health and safety concerns, but that's not really the whole story. They also exist because quite frankly, there are features that we just don't want to build housing next to like a landfill.

(02:41:28):

As anybody who has ever driven across the Texas Gulf Coast can tell you, refineries are often located in heavily industrial parts of the outskirts of town where we would generally prefer to not finance housing in many of those wonderful communities. We would prefer that the developers find more desirable parcels of land for our housing and therefore we have established that the proximity to refineries is an undesirable site feature. Now, I'm not qualified to make any representations about safe proximity to refineries, but the federal government, the environmental firm, and most importantly the City of Corpus Christi all appear to be in agreement that the proposed development site is a safe distance from the refineries in question. If the board accepts this to be true, then the remaining question is whether the location of these refineries makes the development site undesirable for our programs. Given the unique circumstances of Corpus's geography and the fact that the refineries are in close proximity to a desirable part of town, the Board could conclude that this sufficiently mitigates the risk, which is that we would build in undesirable parts of town that the rule is meant to address and therefore that the site is eligible to compete in our program.

(02:42:34):

Just like the first item I presented today, this vote doesn't involve any awards of funding and we won't know until later in the round whether this application is even competitive for an award. You are only voting on whether the site is eligible to compete based on the proximity to the refineries. This concludes my presentation again, stat's recommendation is that the site be found ineligible just on a real plain reading of the rules, but I am happy to answer any questions that you do have.

Leo Vasquez (02:42:59):

Could you repeat for us what is between the site and some of the things like city hall or whatever you said between?

Cody Campbell (02:43:11):

Sure. I mean it is most of the best parts of Corpus is what it sounds like. It's the aquarium museum, city hall, the courthouse a lot is in this general part of town within two miles of the refinery.

Leo Vasquez (02:43:24):

But are those kind of key parts of the city or between this development and there's pictures of it and everything?

Cody Campbell (02:43:34):

Between is a development, that is a word that I don't want to get hung up on. They are within this part of town, but whether or not they exist between the development.

Leo Vasquez (02:43:43):

Page 1072 shows a pretty good picture of those. And we recently, relatively recently, we approve something like this in Houston that was just under two miles or,

Cody Campbell (02:44:04):

That was last year. And it was a kind of similar situation. In that case, the two mile proximity line cut right through the middle of the development site and they had situated all of the residential buildings outside of the two mile radius from the refinery.

Leo Vasquez (02:44:18):

Right, okay. And then we decided that there was shared that there was between the site in the refinery or the industrial location, it was all housing the whole way through between there too.

Cody Campbell (02:44:35):

And in 2019, a site in Corpus that was within two miles of these refineries was determined to be eligible. I didn't include that in my presentation because as Mr. Eccles brings that frequently, this is not a precedent setting body, so it doesn't really affect the decision that you make today, but it has been given a yes in the past.

Leo Vasquez (02:44:58):

Okay. Is anyone here to speak against allowing this waiver? Okay. Does any board members have questions for Mr. Campbell or would you like the applicant to provide more background?

Ajay Thomas (02:45:14):

Just a follow up question on something you said, Mr. Chairman, in terms of just the, so we know it's kind of the general area familiar with Corpus, so it's hard to avoid some of the refineries and things in the area, but this is a pretty desirable part of town. As you said, we know how much residential is actually between the refinery and the proposed site.

Cody Campbell (02:45:37):

That is a great question. I'll ask if the applicant has specifics on that and it sounds like they might.

Leo Vasquez (02:45:43):

Okay. Again, please sign in, identify yourself. Sure.

Daniel McGinn (02:45:47):

Good afternoon, Daniel McGinn. I'm Director of Planning with the City of Corpus Christi. I don't have specific numbers on total residence, but just looking kind of a two mile radius around the refineries in that area it does encompasses our downtown area. The core has our major office complex in my office at city halls within the two mile radius. Our largest hotels, the Omni and the Holiday Inn that are our downtown that have a lot of the visitors that come into our city, the aquarium. So any given time, there is probably an excess of 30, 40,000 people that probably are within that two mile kind of during of a workday. As far as residence, I bet that number is closer to maybe five or 10,000 within, if you kind of did a circle. That would be kind of a best guess. I don't have exact numbers, but yeah, certainly we're in support of declaring the site eligible. This was also a property that the city owns.

(02:46:45):

We came into ownership of it last year, and so it was actually an elementary school just a few years ago. It was a school by our CCISD. They shut it down and consolidated with another school that was close by. And so we ran an RFP process last summer with the idea that we would elicit residential development for this site. We also picked up about 40 single family lots in this neighborhood and we're currently working with, of course, the prosperity applicant on a multifamily project for the school site. And then we were working with currently four single family developers right now. And so we envision infill development redevelopment of this neighborhood. And of course this is a great start catalyst to do that. And so we envision those 40 houses will hopefully be built within the next two to three years. So we see this as a really great opportunity. But yeah, we have some of our major land uses are all located within that two mile radius. And of course, yes, the geography has kind of set us down that path with the original settlement of the downtown are kind of constraints to grow north with the bay and then the ship channel and the port construction of where those refineries kind started. So we do have kind of limitations and it kind of set us on that path to kind put us where all our major land uses are within that distance.

Leo Vasquez (02:48:07):

Great. Does anyone care to make a motion on item 31 of the agenda?

Holland Harper (02:48:19):

I move the Board to determine the development site for Palms to be eligible related to the proximity of the refineries established in 10 TAC, 11.101 a 2 E 9, all as described, your board, extra request resolution and associate documents. This item, I will tell you I was not in favor of this when I walked into it, but after hearing your testimony from the city of Corpus Christi, I have changed my mind.

Leo Vasquez (02:48:49):

Good. Is there a second?

Anna Farias (02:48:51):

Second

Leo Vasquez (02:48:51):

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

All Board members (02:48:57):

Aye.

Leo Vasquez (02:48:58):

Any opposed? No?

Cindy Conroy (02:49:01):

No. I'm not opposed. Just like you. I was not for this initially.

Leo Vasquez (02:49:10):

Okay. Hearing no objections. Motion carries. Thank you. Thank you. And again, this is still, it's just continuing in the process. This isn't an award yet, so let's see where it ends up, but looks pretty neat. Great. So 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 place specific items on future agendas for consideration. Is there anyone who would like to provide public comment at this time? Is there any member of the public still here?

Okay, so the next scheduled meeting of the board is 10:00 AM on Thursday, May 9th, 2024, at the same location. Watch for the agenda postings for further details. And its 10:48 by our clock and the meeting is adjourned. 12:48. 12:48.