

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

Texas Capitol Building
Capitol Extension
Room E2.026
1100 Congress Avenue
Austin, Texas

December 6, 2018
8:00 a.m.

MEMBERS PRESENT:

J.B. GOODWIN, Chair
PAUL A. BRADEN, Member
ASUSENA RESÉNDIZ Member
SHARON THOMASON, Member
LEO VASQUEZ, Member

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
CALL TO ORDER	8
ROLL CALL	8
CERTIFICATION OF QUORUM	8
CONSENT AGENDA	8
ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:	
EXECUTIVE	
a) Presentation, discussion, and possible action on Board meeting minutes summaries for September 6, 2018 and October 11, 2018	
LEGAL	
b) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning North Athens Homes (HOME 532340/CMTS 2707)	
c) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Oak Park Apartments (HTC 91056/CMTS 965) and a related Final Order of Debarment against David Yilmaz and The David Yilmaz Living Trust for a period of 15 years	
d) Presentation, discussion, and possible action on a Memorandum of Understanding between the Texas Department of Housing and Community Affairs and the Texas Department of Agriculture regarding the management of Community Development Block Grant funds for the Colonia Self-Help Center Program	
BOND FINANCE	
e) Presentation, discussion, and possible action on Resolution No. 19-011 authorizing publication of Public Notice for Mortgage Credit Certificate Program	
f) Presentation, discussion, and possible	

action on Inducement Resolution No. 19-012, for Multifamily Housing Revenue Bonds Regarding Authorization for Filing Application for Private Activity Bond Authority on the 2019 Waiting List for Waters at Redbud

- g) Presentation, discussion, and possible action on Inducement Resolution No. 19-013 for Multifamily Housing Revenue Bonds Regarding Authorization for Filing an Application for Private Activity Bond Authority for McMullen Square Apartments
- h) Presentation, discussion, and possible action on Resolution No. 19-014 Authorizing the Execution of an Escrow Agreement relating to the Multifamily Housing Mortgage Revenue Bonds for Ironwood Crossing Series 2002A
- I) Presentation, discussion, and possible action on Resolution No. 19-015 Authorizing the Execution of an Escrow Agreement relating to the Multifamily Housing Mortgage Revenue Bonds for Parkview Townhomes Series 2003A

MULTIFAMILY FINANCE

- j) Presentation, discussion, and possible action regarding changes in the structures of the Development Owner, Developer, and Guarantor prior to issuance of IRS Form(s) 8609 and a request for fee waiver for 18269 2400 Bryan Apartments Dallas
- k) Presentation, discussion, and possible action regarding site eligibility under 10 TAC §10.101(a)(3) related to Undesirable Neighborhood Characteristics TBD Arbor at Wayforest Houston
- l) Presentation, discussion, and possible action on a Determination Notice for Housing Tax Credits with another Issuer
18441 Lakeway Apartment Homes Austin ETJ
18450 Patriot Pointe Fort Worth

- m) Presentation, discussion, and possible action to adopt the 2019 Multifamily Programs Procedures Manual

ASSET MANAGEMENT

- n) Presentation, discussion, and possible action regarding a material amendment to the Housing Tax Credit Application
 - 16098 Parkdale Villas Denison
 - 16402 Charles R. Morehead Apartments
El Paso
 - 16603 Garden City Apartments Houston
 - 17259 Mistletoe Station Fort Worth
- o) Presentation, discussion, and possible action to approve a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement
 - 01002 La Vista Townhomes Del Rio
- p) Presentation, discussion, and possible action regarding changes in the structures of the Development Owner, Developer and Guarantor prior to issuance of IRS Form(s) 8609
 - 13428 Village at Palm Center Houston
 - 15414 The Retreat at Westlock Tomball
- q) Presentation, discussion, and possible action regarding a change in the ownership structure of the Development Owner and Developer prior to issuance of IRS Form(s) 8609
 - 16200 Kirby Park Villas San Angelo
- r) Presentation, discussion, and possible action regarding a change in the ownership structure of the Development Owner prior to issuance of IRS Form(s) 8609 and Application Amendment
 - 16128 El Sereno Senior Apartments Cibolo
f/k/a Borgfeld Manor
- s) Presentation, discussion, and possible action regarding a Placed in Service deadline extension for a development located in a major disaster area as allowed under Section 6 of IRS Revenue Procedure 2014-49
 - 16128 El Sereno Cibolo
 - 16263 La Stella Edinburg

- t) Presentation, discussion, and possible action regarding Post-Closing Amendments to HOME Direct Loan Terms
1002124 Majors Place Greenville

RULES

- u) Presentation, discussion, and possible action on an order adopting new 10 TAC Chapter 7, Subchapter D, Ending Homelessness Fund, and directing publication in the Texas Register
- v) Presentation, discussion, and possible action on an order proposing the amendment of 10 TAC §8.7 Program Regulations and Requirements, and directing publication for public comment in the Texas Register
- w) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule, and an order adopting new 10 TAC Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule, and directing publication in the Texas Register
- x) Presentation, discussion, and possible action on an order adopting the repeal of 10 TAC Chapter 1, Subchapter C, Previous Participation; and an order adopting new, with changes, 10 TAC Chapter 1, Subchapter C, Previous Participation and Executive Award Review and Advisory Committee, and directing their publication for adoption in the Texas Register
- y) Presentation, discussion, and possible action on the draft 2019 State of Texas Low Income Housing Plan and Annual Report, and proposed repeal and proposed new 10 TAC Chapter 1, Subchapter A, General Policies and Procedures §1.23 concerning State of Texas Low Income Housing Plan and Annual Report, and directing their publication for public comment in the Texas Register

CONSENT AGENDA REPORT ITEMS

8

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) TDHCA Outreach Activities, (November - December)
- b) Presentation, discussion, and possible action to accept the report on the Draft Computation of Housing Finance Division Total and Unencumbered Fund Balances and Transfers to the Housing Trust Fund
- c) Report on the Department's SFY 2018 draft Balance Sheet/Statement of Net Position for the year ended August 31, 2018
- d) Report regarding a Request for Proposal for Financial Advisor issued by the Texas Department of Housing and Community Affairs
- e) Report on the allocation of Program Year 2019 Community Services Block Grant awards
- f) Report on the 2020 QAP Planning process

ACTION ITEMS

ITEM 3: INTERNAL AUDIT

Report on the meeting of the Internal Audit and Finance Committee 14

ITEM 4: BOND FINANCE

- a) Presentation, discussion, and possible 15 action on Resolution No. 19-010 authorizing the sale of mortgage-backed securities and redemption of 2009 Series A Residential Mortgage Revenue Bonds and 2009 Series B Residential Mortgage Revenue Bonds
- b) Presentation, discussion, and possible 18 action regarding the Issuance of Multifamily Tax-Exempt Bonds (M-TEMS) (Park Yellowstone) Series 2019 and Multifamily Housing Revenue Bonds (Park Yellowstone) Series 2019 Resolution No. 19-016 and a Determination Notice of Housing Tax Credits

ITEM 5: RULES

Presentation, discussion, and possible action on an order adopting the amendments to 10 TAC Chapter 10 Subchapter E, concerning Post Award and Asset Management Requirements, and directing its publication in the Texas Register 21

ITEM 6: MULTIFAMILY FINANCE

- a) Presentation, discussion, and possible action on a request for the extension of the placement in service deadline under 10 TAC §11.6(5) of the 2018 Qualified Allocation Plan related to Credit Returns Resulting from Force Majeure Events 24
16185 Merritt Heritage Georgetown
16210 Merritt Monument Midland
- b) Presentation, discussion, and possible action on penalties for failure to meet deadlines under 10 TAC 11.9(c)(8) Readiness to Proceed 29
18013 Dayton Retirement Center Dayton
18243 2222 Cleburne Houston
- c) Presentation, discussion, and possible action regarding approval for publication in the Texas Register of the 2019-1 Multifamily Direct Loan Notice of Funding Availability 49
- d) Presentation, discussion, and possible action regarding a request for extension of deadlines for the Housing Tax Credit Application 49
18235 Memorial Apartments McAllen pulled
- e) Presentation, discussion and possible action regarding an Award of Direct Loan Funds from the 2018-1 Multifamily Direct Loan Notice of Funding Availability 53
18019 Highlander Senior Village Bulverde

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS none

EXECUTIVE SESSION none

OPEN SESSION --

ADJOURN 59

P R O C E E D I N G S

1
2 MR. GOODWIN: Good morning. I welcome you to
3 the Board meeting for the Texas Department of Housing and
4 Community Affairs, December 6, 2018.

5 We will start with a roll call.

6 Mr. Braden?

7 MR. BRADEN: Here.

8 MR. GOODWIN: Ms. Thomason?

9 MS. THOMASON: Here.

10 MR. GOODWIN: Ms. Reséndiz?

11 MS. RESÉNDIZ: Present.

12 MR. GOODWIN: Mr. Vasquez?

13 MR. VASQUEZ: Here.

14 MR. GOODWIN: Mr. Goodwin, here.

15 Ms. Bingham could not be with us this morning.

16 If you would please stand and join us as director Vasquez
17 leads us in the Pledge of Allegiance to the Flag.

18 (Whereupon, the pledges were recited.)

19 MR. GOODWIN: We are going to start this
20 morning with a couple of agenda modifications and then
21 some clarifications as well. Is there any item on the
22 consent agenda that anyone on the Board would like to see
23 pulled for discussion?

24 (No response.)

25 MR. GOODWIN: Anybody in the public have any

1 consent agenda items that you want to see pulled and
2 discussed? If not, hearing so --

3 MR. DEYOUNG: We have --

4 MR. GOODWIN: -- sorry?

5 MR. DEYOUNG: We have a verbal correction.

6 MR. GOODWIN: We do have a correction, and
7 Michael DeYoung will help us on that verbal correction.
8 Michael, that number is?

9 MR. DEYOUNG: Item 2E.

10 MR. GOODWIN: 2E.

11 MR. DEYOUNG: Good morning, Mr. Chairman and
12 members of the Board. Michael DeYoung, Community Affairs
13 Commission director.

14 Staff would like to make a verbal correction to
15 Item 2E in your Board book. It's on the consent agenda.

16 It's the CSPG awards report item. Staff
17 inadvertently included an additional sentence from a prior
18 board item, and it is in the last box on that page. The
19 easiest way for me to show that is the last sentence:
20 "Additionally, the Department is awaiting a satisfactory
21 response."

22 That does not apply to that Galveston County
23 Community Action Council Inc., and that is --

24 MR. GOODWIN: So that highlighted portion needs
25 to be --

1 MR. DEYOUNG: That highlighted piece --

2 MR. GOODWIN: -- moved.

3 MR. DEYOUNG: -- needs to be dropped.

4 MR. GOODWIN: Okay.

5 MR. DEYOUNG: That is just an old item.

6 MR. BRADEN: For --

7 MR. GOODWIN: Okay.

8 MR. BRADEN: -- for purposes of the record, you

9 should read that sentence.

10 MR. DEYOUNG: Okay. The entire sentence is:

11 "Additionally, the Department is awaiting a satisfactory

12 response to the uncorrected noncompliance related to

13 affirmative marketing requirement at La Casita a/k/a

14 Windmill Village, ID 2678" -- should be struck from the

15 Board item.

16 MR. GOODWIN: Okay. Any other clarifications

17 or modifications or requests? If not, I will entertain --

18 Beau, did you have something you wanted to say?

19 MR. ECCLES: No, sir.

20 MR. GOODWIN: I will entertain a motion to

21 accept the consent agenda.

22 MS. THOMASON: So moved.

23 MR. GOODWIN: I have a motion that was made.

24 Seconded?

25 MR. VASQUEZ: Second.

1 MR. GOODWIN: Any discussion? All those in
2 favor, say aye.

3 (A chorus of ayes.)

4 MR. GOODWIN: Opposed?

5 (No response.)

6 MR. GOODWIN: Okay. That moves us down to the
7 action items, and in the action items, we have one agenda
8 modification, and that is that item 6(d) has been pulled
9 from the agenda. Okay. And we will start with the
10 Internal Audit report.

11 MS. THOMASON: No.

12 MR. GOODWIN: No?

13 MS. THOMASON: You mean, Memorial?

14 MR. VASQUEZ: Memorial was pulled.

15 MR. GOODWIN: Memorial was pulled. Item 6(d).

16 Oh, sorry. Administrative issues up here. So I think
17 we've resolved them. All right. Oh, do we have a
18 homeless resolution?

19 MR. LYTTLE: Yes, sir.

20 MR. GOODWIN: Will you read it into the record
21 for us, Michael, before we start down on the audit? He's
22 getting ready.

23 MR. LYTTLE: All right. Here we go. "Whereas,
24 as measured by the 2017 annual homeless assessment report,
25 more than 23,000 person experiencing homelessness were

1 counted in Texas during the last two weeks of January in
2 each of the last three years, including more than 6,800
3 people and families;

4 "Whereas, the state and federal homelessness
5 and homelessness prevention programs administered by the
6 Texas Department of Housing and Community Affairs supports
7 street outreach, emergency shelters, rapid rehousing,
8 homelessness prevention and support services as front-line
9 responses to community homelessness;

10 "Whereas, the Department's homeless programs
11 assisted more than 45,000 persons, helping them to move
12 toward housing stability after experiencing or being at
13 risk of homelessness in state fiscal year 2018;

14 "Whereas, the Department recognizes that each
15 person who works with someone experiencing or at risk of
16 homelessness makes a difference;

17 "Whereas, the Department supports local
18 governments and organizations that work often in
19 collaboration to address, prevent and minimize
20 homelessness;

21 "Whereas, December 21, 2018, is National
22 Homeless Persons Memorial Day, which annually falls on the
23 longest night of the year; and

24 "Whereas, the Department recognizes those who
25 have lost their lives while experiencing homelessness;

1 "Now, therefore, it is hereby resolved that the
2 Governing Board of the Texas Department of Housing and
3 Community Affairs does hereby commemorate and recognize
4 December 21, 2018, as Homeless Persons Memorial Day in
5 Texas, and encourages all Texas individuals and
6 organizations, public and private, to join in this
7 observance of National Homeless Persons Memorial Day.

8 "Signed this sixth day of December 2018."

9 MR. GOODWIN: Thank you, Michael. Do I hear a
10 motion to accept this resolution?

11 MR. VASQUEZ: So moved.

12 MR. GOODWIN: Second?

13 MS. THOMASON: Second.

14 MR. GOODWIN: Any discussion?

15 (No response.)

16 MR. GOODWIN: All those in favor, say aye.

17 (A chorus of ayes.)

18 MR. GOODWIN: Opposed?

19 (No response.)

20 MR. GOODWIN: Okay. Now, we will move into the
21 internal audit. Mark, were you going to -- is Sharon
22 going to report?

23 MR. SCOTT: Sharon.

24 MR. GOODWIN: Sharon's going to report. Okay.

25 Ms. Thomason?

1 MS. THOMASON: The Audit -- why, thank you.
2 The Audit and Finance Committee met this morning at 7:30.
3 Staff is here to answer any questions that you may have.
4 The Finance Division presented the draft computation of
5 Housing Finance Division total and unencumbered fund
6 balances and transfers to the Housing Trust Fund.

7 That item was on our consent agenda presented
8 to the Board that was just approved. We also have four
9 report items from Internal Audit. Mr. Scott presented the
10 internal audits of the HOME fund tracking, as well as the
11 internal audit of the Loan Servicing Division.

12 Mr. Scott also presented the annual report on
13 Internal Audit, and discussed recent Internal Audit
14 activities, and is here to answer any questions that you
15 may have.

16 MR. GOODWIN: Okay. Any questions from any
17 Board members regarding the audit, Committee report?

18 (No response.)

19 MR. GOODWIN: If not, I will accept a motion,
20 which I assume you will be making.

21 MS. THOMASON: So moved.

22 MR. GOODWIN: It's been moved. Seconded?

23 MR. VASQUEZ: Second.

24 MR. GOODWIN: It's been moved and seconded.

25 Any discussion?

1 (No response.)

2 MR. GOODWIN: If not, all those in favor, say
3 aye.

4 (A chorus of ayes.)

5 MR. GOODWIN: Opposed?

6 (No response.)

7 MR. GOODWIN: Thank you. Moving to Item No. 4,
8 bond finance. Good morning, Monica.

9 MS. GALUSKI: Good morning, Mr. Chairman,
10 members of the Board, staff. I'm Monica Galski, the
11 director of Bond Finance.

12 This item is the presentation, discussion, and
13 possible action on Resolution No. 19-010 authorizing the
14 sale of mortgage-backed securities and the Residential
15 Mortgage Revenue Bonds on of 2009 Series A and 2009 Series
16 B Residential Mortgage Revenue Bonds.

17 Okay. So in August 2009, the Department issued
18 approximately \$102 million in Residential Mortgage Revenue
19 Bonds, 2009 Series A and B, of which right now
20 approximately 21 million in those bonds are still
21 outstanding. Mortgage-backed securities guaranteed by
22 Ginnie Mae and Fannie Mae secure these bonds, and the
23 bonds can be redeemed at par beginning January 1, 2019.

24 So staff has been working with the Department's
25 financial advisor and bond counsel to evaluate our options

1 with respect to these bonds, and we've basically looked at
2 three things we could do. We could do nothing, just leave
3 the bonds outstanding, continue to earn some positive
4 spread between the MBS rate and the bond rate.

5 We could issue refunding bonds, which would
6 reduce the cost of the debt, increasing that spread
7 between the MBS and the bonds, or we would simply sell
8 those mortgage-backed securities, redeem the bonds, and
9 you know, use the proceeds to redeem the bonds and have
10 some access.

11 Both the refunding bond sale and the sale of --
12 refunding bonds and the MBS sale generate approximately
13 the same benefit economically. They're both better,
14 though, than doing nothing. So while they're both similar
15 in economic result, the present value benefit of the MBS
16 sale is certain. The outcome is certain because it
17 eliminate any prepayment risk on the mortgages going
18 forward, which would come into play with a refunding bond
19 issue.

20 So given all that, staff is requesting
21 authorization to sell some or all of those mortgage-backed
22 securities that back these particular bonds. We expect
23 the net benefit to the indenture to be at least 800,000,
24 and also of note is that doing this redemption will allow
25 the release of escrow funds that are pledged these series,

1 which will increase the liquidity in this, which is the
2 RMRB indenture, by almost \$3 million, which given our down
3 payment assistance and liquidity constraints, that's a
4 really good thing for us.

5 If the MBS sale price is at least 102.5, which
6 would be \$102.5 for every \$100 of MBS sold, there will be
7 a net present value to the indenture. At this time,
8 though, we're expecting that the sale price will be well
9 over 107.

10 The indenture requires a bond counsel opinion
11 and a rating confirmation, both of which are in process.
12 Staff expects to price and settle the MBS in January and
13 to redeem the bonds February 1, 2019.

14 That concludes my presentation. Does anyone
15 have any questions?

16 MR. GOODWIN: I have a question. When you said
17 the \$800,000 benefit and the \$3 million, was that
18 calculated at 102 or 107?

19 MS. GALUSKI: The \$800,000 benefit is
20 calculated at a 107.

21 MR. GOODWIN: Okay.

22 MS. GALUSKI: The 102.5 is sort of our break-
23 even with the do-nothing scenario.

24 MR. GOODWIN: Okay. So we go into this at 107.
25 We end up at 106. We're still a lot better off than we

1 are at 102.

2 MS. GALUSKI: Absolutely.

3 MR. GOODWIN: Okay. Other questions for the
4 Board members?

5 (No response.)

6 MR. GOODWIN: If not, do I hear a motion to
7 approve from bond expert?

8 MR. BRADEN: I'll make a motion to approve and
9 adopt the resolution.

10 MR. GOODWIN: Second?

11 MR. VASQUEZ: I'll second.

12 MR. GOODWIN: It's been moved and seconded.
13 Any discussion? If not, all those in favor, say aye.

14 (A chorus of ayes.)

15 MR. GOODWIN: Opposed?

16 (No response.)

17 MR. GOODWIN: Okay. Item 4(b) -- no. That was
18 4(a)?

19 MR. VASQUEZ: Yes.

20 MR. GOODWIN: Who's doing 4(b)? Good morning.

21 MS. MORALES: Good morning. Teresa Morales,
22 manager of Multifamily Bonds. Chairman Goodwin and
23 members of the Board, Item 4(b) involves the issuance of
24 multifamily revenue bonds by the Department for the
25 acquisition and rehabilitation of 210 units in Houston,

1 with all of the units restricted at 60 percent of the area
2 median income and serving the general population.

3 This transaction involves the issuance of
4 multifamily tax-exempt bonds through the Fannie Mae MBS as
5 tax-exempt bond collateral program. There will be two
6 mortgage loans originated by the Department to the
7 borrower on the closing date, and funded with the bond
8 proceeds in an amount not to exceed \$16 million.

9 The tax-exempt bonds issued will be spent
10 primarily on acquisition with the remaining to be spent on
11 construction draws for the project costs. The bonds will
12 be cash collateralized with funds from other sources,
13 which offers protection for the bond holders.

14 Funds on deposit in the collateral account will
15 be used to purchase the MBS, which will be used to secure
16 the bonds from that point forward. Payments on the bonds
17 will be guaranteed by Fannie Mae. Part of the \$16 million
18 issuance includes approximately 1.1 million in short-term
19 tax-exempt bonds for purposes of meeting the federally-
20 required 50-percent test, which requires at least
21 50 percent of the project's aggregate basis, which is land
22 plus depreciable assets to be financed by tax-exempt bonds
23 in order to be eligible for the 4 percent housing tax
24 credit.

25 The bond proceeds will be used for acquisition

1 and the bonds will remain outstanding for the construction
2 period and redeemed after 24 months. The short-term bonds
3 will be cash-collateralized with some of the proceeds of
4 the City of Houston's soft loan.

5 The bonds will have an interest rate that
6 mirrors the pass-through rate on the MBS, currently
7 estimated to be about 4.78 percent. The loan will have a
8 term of 17 years and a 35-year amortization. The bonds
9 are expected to be rated AA+ by Standard and Poors.

10 Staff recommends the approval of Bond
11 Resolution No. 19-016 in amount not to exceed \$16 million,
12 and a determination notice of 4 percent housing tax
13 credits in the amount of \$879,975.

14 MR. GOODWIN: Any questions? If not, do I hear
15 a motion to approve staff's recommendation?

16 MR. BRADEN: I'll make a motion to approve
17 staff's recommendation and adopt the resolution.

18 MR. GOODWIN: Second?

19 MS. THOMASON: Second.

20 MR. GOODWIN: It's been moved and seconded.
21 Any discussion? All those in favor, say aye.

22 (A chorus of ayes.)

23 MR. GOODWIN: Opposed?

24 (No response.)

25 MR. GOODWIN: Okay. Thank you, Teresa.

1 Item 5(a).

2 MR. BANUELOS: Good morning, Mr. Chairman,
3 members of the Board. I am Rosalio Banuelos, director of
4 Asset Management, and Item 5 is "Presentation, discussion,
5 and possible action on an order adopting the amendments to
6 10 TAC Chapter 10 Subchapter E, concerning Post Award and
7 Asset Management Requirements, and directing its
8 publication in the *Texas Register*."

9 The draft Post Award and Asset Management
10 Requirement rule was previously approved for publication
11 and public comment was accepted for three weeks from
12 September 21 to October 12. During this period, comments
13 from three individuals were received.

14 The summary of the comments received and
15 staff's response to each comment is in the preamble in the
16 order. Staff made changes, corrections and clarifications
17 to the proposed Post Award and Asset Management
18 Requirements based on the comments received during the
19 public comment period, but due to the significant nature
20 of some of the proposed changes, we did not incorporate
21 those into the rule, because it would not have given the
22 opportunity for further public comments.

23 I won't go through each of the comments in
24 detail, but I would like to point out the most important
25 changes that we made, which are in the section for right

1 of first refusal, or ROFR as we call it, and in the
2 section for qualified contract.

3 In the sections discussing the instances in
4 which ROFR is or is not satisfied, we clarified that in
5 the case of a posted minimum purchase price, the
6 acceptable offer can be at the price yielded by the
7 sequential negotiation.

8 However, two of the commenters recommended that
9 the language be amended to require an owner to accept an
10 offer that meets the minimum purchase price and only allow
11 for negotiation of a higher price when multiple offers
12 within certain priorities [indiscernible 26:35] are
13 received.

14 One of the commenters believes his suggestion
15 is consistent with the reading of statute. However, the
16 legal interpretation from the Department is the proposed
17 changes are intended to implement the most reasonable
18 reading of statute, which is that a minimum sales price,
19 as stated in Section 42(a)(7) of the Internal Revenue Code
20 is on the sales price floor, and the negotiations for a
21 higher price are allowed.

22 Regarding qualified contract, in the
23 eligibility section, we recommend we remove the opening
24 statement to make it clear that development owners who
25 received an award of credits on or after January 1, 2002

1 are not eligible to request the qualified contract prior
2 to a 30-year anniversary of the date that the property was
3 placed in service.

4 This is to be consistent with 2306.85 of
5 statute. We also added language stating that if the
6 property's LURA indicates a commitment to an extended use
7 period beyond 30 years, the development owner is not
8 eligible to request a qualified contract until the
9 expiration of the extended use period.

10 Staff recommends that the proposed amendments
11 to 10 TAC Chapter 10, Subchapter E, concerning Post Award
12 and Asset Management Requirements, be approved, and its
13 publication in the *Texas Register* be approved.

14 MR. GOODWIN: Great. Do I hear a motion to
15 approve staff's recommendation?

16 MS. THOMASON: So moved.

17 MR. GOODWIN: Second?

18 MR. VASQUEZ: Second.

19 MR. GOODWIN: It's been moved and seconded.

20 Any questions or discussion? If not, all those in favor,
21 say aye.

22 (A chorus of ayes.)

23 MR. GOODWIN: Opposed?

24 (No response.)

25 MR. GOODWIN: Thank you. Moving on to

1 Multifamily Finance, Item 6.

2 MS. HOLLOWAY: Good morning, Chairman Goodwin,
3 members of the Board. I'm Marni Holloway. I'm the
4 director of the Multifamily Finance Division.

5 Starting with Item 6(a), this was
6 "Presentation, discussion, and possible action on a
7 request for the extension of the placement in service
8 deadline under 10 TAC '11.6(5) of the 2018 Qualified
9 Allocation Plan related to Credit Returns Resulting from
10 Force Majeure Events for No. 16185." This is Merritt
11 Heritage.

12 Merritt Heritage received a 2016 award of
13 \$1,194,724 of 9 percent credits. The development was
14 required to be placed in service by December 31, 2018. We
15 received a request on November 14 to extend the placement
16 in service deadline under the provisions of our rule
17 related to credit returns resulting from force majeure
18 events.

19 The request is based on delays caused by
20 significant and unusual rainfall, which is one of the
21 allowable circumstances for force majeure. The owner has
22 requested extension of the deadline from December 31, 2018
23 to March 31, 2019 with the possibility of further
24 extension if necessary.

25 So as a reminder, other than in cases of

1 natural disaster, the Department does not have authority
2 to simply extend federal deadlines for placement in
3 service. The extension must be accomplished through the
4 return and immediate re-issuance of credit.

5 So that's what the force majeure action is.
6 Merritt Heritage is the new construction of 244 units for
7 an elderly population in Georgetown. In May 2018, the
8 contractor processed a change order to add 13 days to the
9 contract, and another change order was processed in
10 October 2018, adding another 16 days.

11 So that's a total of 28 days added to the
12 construction contract. In addition, Governor Abbott
13 issued a disaster declaration for Williamson County on
14 October 16, citing severe weather and flooding. The owner
15 claims the most recent rains delayed critical exterior
16 work, including striping the parking lot and finishing
17 sidewalks and the swimming pool area.

18 They have provided significant documentation of
19 the impact of the rain delay and their mitigation efforts.

20 Staff recommends that the request for treatment of
21 Merritt Heritage under an application of the force majeure
22 rule be approved and that the applicant must continue to
23 follow the 2016 QAP, with the exception that the 2018
24 program calendar will now apply.

25 I'd be happy to take any questions.

1 MR. GOODWIN: Do I hear a motion to approve
2 staff's recommendation?

3 MS. THOMASON: So moved.

4 MR. BRADEN: So moved.

5 MR. GOODWIN: Second?

6 MR. BRADEN: Second.

7 MR. VASQUEZ: Second.

8 MR. GOODWIN: Moved and seconded. Any
9 questions for staff? Any comments from anyone? If not,
10 all those in favor, say aye.

11 (A chorus of ayes.)

12 MR. GOODWIN: Opposed?

13 (No response.)

14 MR. GOODWIN: Okay. 6(a) --

15 MS. HOLLOWAY: Still on 6(a), but this is
16 Application 16210 Merritt Monument. Merritt Monument
17 received an award of 850 --

18 MR. GOODWIN: Marni, I'm sorry to interrupt.

19 MS. HOLLOWAY: I'm sorry?

20 MR. GOODWIN: You said, 6 -- 16. But it's
21 18210.

22 MS. HOLLOWAY: No.

23 MR. VASQUEZ: No.

24 MR. GOODWIN: Is my agenda wrong? It is 16210?

25 MS. HOLLOWAY: It's 16210.

1 MR. GOODWIN: Okay. Okay.

2 MS. HOLLOWAY: All right.

3 MR. GOODWIN: Thank you.

4 MS. HOLLOWAY: Merritt Monument received a
5 award of \$853,071 of 9 percent credit in 2016, which
6 carries a requirement that each building be placed in
7 service by December 31, 2018. This development is a new
8 construction of 104 units serving a general population in
9 Midland.

10 On November 15, 2018, we received a request to
11 extend the placement in service deadline under the force
12 majeure provisions of the QAP to March 31, 2019. Among
13 the allowable bases for force majeure are changes in law,
14 rule or regulations and labor shortages, both of which are
15 described in the request.

16 Regarding changes in law, rule or regulations,
17 the owner describes a change order request from its
18 contractor to extend the completion deadline by 42 days in
19 part because city inspectors were often three to five days
20 late in completing their inspections throughout the
21 construction process, and because the City appointed a new
22 fire marshal during the course of construction who
23 required changes to the fire suppression plan for the
24 development.

25 Regarding labor shortages, the owner claims

1 that one side effect of rapid growth in Midland is that
2 the City of Midland is struggling to maintain sufficient
3 staff to handle the abundant construction activity. The
4 contractor has substantially increased the manpower of the
5 site in order to mitigate the impact of delays, but the
6 owner points out that they must all be recruited from out
7 of town and cannot be productive when the site is waiting
8 for a city construction inspector.

9 A letter from Midland City Council member
10 J. Ross Lacy supports the owner's request. Staff
11 recommends that the request for treatment of Merritt
12 Monument under an application of the force majeure rule be
13 approved, along with the condition that the applicant must
14 continue to follow the 2016 QAP, except that the program
15 calendar for 2018 will apply.

16 I'd be happy to answer any questions.

17 MR. GOODWIN: Do I hear a motion to accept
18 staff's recommendation?

19 MS. THOMASON: So moved.

20 MR. GOODWIN: Second?

21 MR. BRADEN: Second.

22 MR. GOODWIN: Any questions? All those in
23 favor, say aye.

24 (A chorus of ayes.)

25 MR. GOODWIN: Opposed?

1 (No response.)

2 MR. GOODWIN: Okay.

3 MS. HOLLOWAY: Item 6(b) is "Presentation,
4 discussion, and possible action on penalties for failure
5 to meet deadlines under 10 TAC 11.9(c)(8) Readiness to
6 Proceed." This one is 18013 Dayton Retirement Center.
7 Dayton Retirement Center was approved on July -- in July
8 to receive \$279,322 of 9 percent credits for the
9 acquisition and rehabilitation of 48 units for an elderly
10 population in Dayton.

11 The application was awarded five points under
12 readiness to proceed in disaster-impacted counties. The
13 scoring item requires that the development close all
14 financing and fully execute a construction contract on or
15 before the last business day of October 2018.

16 The item includes language that states the
17 failure to close all financing and provide evidence of an
18 executed construction contract by the October deadline
19 will result in penalty as determined by the Board. The
20 rule item doesn't call out what the penalty is.

21 It's the -- the Board determines what it is,
22 what it will be. We required all readiness applicants to
23 provide evidence they had met the October deadline to us
24 by November 9. The applicant for Dayton Retirement Center
25 confirmed to us on the ninth that all financing was not

1 closed and they did not provide evidence that a
2 construction contract had been fully executed.

3 On November 12, we notified the applicant that
4 the matter would be presented for final determination of
5 future ineligibility or point deductions by the Board at
6 this meeting. Because the applicant is subject to penalty
7 under the rule, staff requests the Board make a
8 determination in this matter.

9 MR. GOODWIN: Okay. Is that the end of your
10 report on that item?

11 MS. HOLLOWAY: It is.

12 MR. GOODWIN: As I understand it, the readiness
13 to proceed, if I remember correctly, is the provision that
14 the Governor's Office put into --

15 MS. HOLLOWAY: Yes, into the 2018 QAP.

16 MR. GOODWIN: -- into the 2018 QAP --

17 MS. HOLLOWAY: Uh-huh.

18 MR. GOODWIN: -- and as I understand it, our
19 options are really three distinct options. One is, if an
20 applicant doesn't meet the requirements of readiness to
21 proceed, we could make them, the applicant, ineligible for
22 any applications that happen next year in 2019 --

23 MS. HOLLOWAY: Right.

24 MR. GOODWIN: -- or we could deduct from a
25 different application in 2019 one point of the five -- one

1 point off of their application or any application. If
2 they put in four applications, it would be one point off
3 of each application?

4 MS. HOLLOWAY: Right. And the item is actually
5 applicant or affiliate.

6 MR. GOODWIN: Applicant or affiliate. Okay.

7 MS. HOLLOWAY: Yes.

8 MR. GOODWIN: And then I understand the third
9 remedy that we have is just to say, ah, well --

10 MS. HOLLOWAY: Right.

11 MR. GOODWIN: -- no big deal.

12 MS. HOLLOWAY: Right.

13 MR. GOODWIN: We're not going to do anything.

14 MS. HOLLOWAY: Right.

15 MR. GOODWIN: Okay.

16 MS. HOLLOWAY: Those in fact are your three
17 options.

18 MR. GOODWIN: Those are the Board's three
19 options as it relates to this. And refresh me. We had
20 22 people, 22 applications that were --

21 MS. HOLLOWAY: With readiness? Yes.

22 MR. GOODWIN: -- took or applied for readiness
23 to proceed --

24 MS. HOLLOWAY: That claimed those points. Uh-
25 huh.

1 MR. GOODWIN: And out of the 22, 20 --

2 MS. HOLLOWAY: Twenty accomplished that.

3 MR. GOODWIN: -- accomplished it. Two were
4 unable to accomplish it.

5 MS. HOLLOWAY: Correct.

6 MR. GOODWIN: Okay. And correct me also if I'm
7 wrong that these need to be taken case by case --

8 MS. HOLLOWAY: Uh-huh.

9 MR. GOODWIN: -- and because we vote to make
10 one applicant and/or affiliate ineligible for whatever
11 reason the Board members make that decision, that's not
12 precedent-setting as to what we're going to do on the next
13 application or applications that happen in the 2019 round.

14 MS. HOLLOWAY: Exactly. And it's every -- the
15 circumstances behind each case is going to be individual
16 to that particular development.

17 MR. GOODWIN: Yeah.

18 MS. HOLLOWAY: Even if they sound kind of
19 similar, it's still -- you know, they're each individual.

20 MR. GOODWIN: Yeah. And so in listening to
21 that, it seems the harshest penalty is to make the
22 applicant and their affiliates ineligible --

23 MS. HOLLOWAY: Yes, it is.

24 MR. GOODWIN: -- and the least, which is almost
25 unfair to the other 20 who did meet to just say, ah, well,

1 we're just not going to do anything, and the kind of
2 middle ground seems to be a penalty of one point against
3 applications that you submit in 2019.

4 MS. HOLLOWAY: And part of that is, I think,
5 again, looking at the circumstances for this particular
6 transaction, they were in the USDA at-risk set-aside. So
7 because we were under-subscribed this year, they would
8 have gotten an award whether they took the points or not.

9 MR. GOODWIN: Right.

10 MS. HOLLOWAY: The other one that we're
11 discussing was not within that set-aside. It doesn't have
12 that circumstance.

13 MR. GOODWIN: Right. And none -- no action as
14 it relates to the penalty under readiness to recent
15 affects the award that they've already been granted --

16 MS. HOLLOWAY: Correct.

17 MR. GOODWIN: -- so it doesn't drop them off
18 the list and put somebody above them.

19 MS. HOLLOWAY: They're still moving on with
20 their deal.

21 MR. GOODWIN: So their deals are safe. It's
22 just for future deals. Any questions from any Board
23 members of Marni? Any comment? I'm sorry.

24 MR. VASQUEZ: I have a question.

25 MR. GOODWIN: You had a question?

1 MR. VASQUEZ: What is -- sorry -- as of this
2 date, have they closed all the financings and executed the
3 contracts --

4 MS. HOLLOWAY: Actually --

5 MR. VASQUEZ: -- for the quarter?

6 MS. HOLLOWAY: -- why don't we let Tamea tell
7 you about the current status of that development? I
8 believe they were headed for closing by the end of the
9 year?

10 MS. DULA: That's true. Yes.

11 MR. VASQUEZ: But they still --

12 MS. DULA: We have --

13 MR. VASQUEZ: -- okay. Let's -- yeah --

14 MR. GOODWIN: Okay. Tamea -- yeah, let's --

15 MR. VASQUEZ: -- I'm hearing that they still
16 have not --

17 MR. GOODWIN: Okay.

18 MR. VASQUEZ: -- at this point.

19 MS. DULA: Good morning. I'm Tamea Dula with
20 Coats Rose and I'm here on behalf of Charles Holcomb, the
21 developer. Charles knew that he was not going to be able
22 to be here today, so he wrote a letter to the Board that's
23 included in your Board book.

24 He's very regretful that he wasn't able to
25 close in a timely manner with regard to this project. He

1 is balancing the requirements of a Section 42 program and
2 the USDA's 515 program, and that can make it a little
3 difficult and time-consuming in order to make everybody
4 come out where you want them to be.

5 Although he didn't close by October 31, he is
6 hoping to close by the end of this year, and right now,
7 we're planning on doing that closing by the end of the
8 year.

9 MR. GOODWIN: Okay. Any questions for Tamea?

10 MS. DULA: I would like to point out that this
11 is an unusual circumstance. Since failing to qualify for
12 those five points didn't hurt anybody, nobody was kicked
13 off, out of an award, because of it, he would have receive
14 the award anyway, because he's in the at-risk and the USDA
15 set-asides.

16 MR. GOODWIN: Okay. So we are as a Board -- no
17 other questions for Tamea? Does anybody else want to
18 speak to this issue? I'm going to need some Board member
19 to come up with a motion -- oh, Barry, are you going to
20 speak?

21 MR. PALMER: Let me add a couple of things.

22 MR. GOODWIN: Okay.

23 MR. PALMER: Because I worked on this project
24 with Charles, trying to get it closed, and this is a USDA
25 project, so it required approval from USDA to get the loan

1 assumed by the new entity, and that's really the thing
2 that prevented the deal from closing on time, and added to
3 the fact -- you know, Charles is a very experienced
4 developer, had been doing this a long time in USDA, but he
5 is in his 80s.

6 And we found, after we got the credit
7 allocation, that it was difficult to find a tax credit
8 investor who would take a 15-year compliance guarantee
9 from Charles. So there was only -- so that delayed him
10 for a long time.

11 He finally found one investor who was willing
12 to do it, and is prepared to close right now, but you
13 know, there was no lack of trying on his part. I know
14 everybody else tried, and most of them succeeded, but he
15 had a couple of obstacles that he just did not make by
16 October 31.

17 MR. GOODWIN: So the question I have, Barry,
18 is, when would you expect him, under the scenario with the
19 current investor, be able to close?

20 MR. PALMER: So we're shooting for a
21 December 31 closing. It could fall into January, but it
22 will definitely close by the end of January.

23 MR. GOODWIN: Okay. So if it's not closed by
24 the end of January, your thought would be that whatever is
25 in the works today would probably be replaced with

1 something else if it were going to close or it would fall
2 apart?

3 The transaction would fall apart?

4 MR. PALMER: No. I -- you know, I think it
5 will close late December or early January, unless, you
6 know, something unforeseen comes up --

7 MR. GOODWIN: Okay.

8 MR. PALMER: -- but that's my expectation.

9 MR. GOODWIN: Okay. Any questions from any
10 other Board members? Any other comments? If not, we're
11 going to need a motion. I'm sorry? Oh, thank you. With
12 one of the three actions? Anybody has any strong feeling,
13 any kind of feeling?

14 It's Christmastime.

15 MS. THOMASON: I will make a motion.

16 MR. GOODWIN: Okay.

17 MS. THOMASON: Given the fact that none of the
18 other applications in that particular area would have been
19 affected, I would make a motion to not impose any
20 penalties on this.

21 MR. GOODWIN: Okay.

22 MR. BRADEN: I'll second that. I echo that,
23 and dealing with the USDA can be really a problem.

24 MR. GOODWIN: Okay. Any other discussion? We
25 have a motion and a second. All those in favor, say aye.

1 (A chorus of ayes.)

2 MR. GOODWIN: Opposed?

3 (No response.)

4 MR. GOODWIN: Okay. Thank you, Tamea.

5 MS. HOLLOWAY: Also under 6(b) is the
6 Application 18243. This is 2222 Cleburne. So an award of
7 9 percent credits in the amount of \$1,500,000 to 2222
8 Cleburne was made in July. The application proposed the
9 new construction of 112 units for the elderly population
10 in Houston.

11 The applicant was awarded five points under
12 readiness to proceed in disaster-impacted counties. The
13 scoring item requires that the development close all
14 financing and fully execute a construction contract on or
15 before the last business day of October.

16 Again, we required all readiness applicants to
17 provide evidence they met the October deadline by
18 November 9. On November 9, the applicant confirmed that
19 all financing was not closed by the October deadline.
20 Also, the applicant did not provide evidence that a
21 construction contract had been fully executed.

22 On November 12, we notified the applicant that
23 the matter would be presented for final determination of
24 future ineligible or point deductions by the Board at this
25 meeting. We have not received any correspondence. There

1 was nothing for us to put in the book for you on this one.

2 Because the applicant is subject to penalty
3 under the rule, staff requests the Board make a
4 determination in this matter, and I'd be happy to answer
5 any questions.

6 MR. GOODWIN: Okay.

7 MR. VASQUEZ: Was there any reason, excuse, as
8 to why deadlines were missed, previously provided to the
9 Department?

10 MS. HOLLOWAY: Mr. Fairfield is here, and I'm
11 sure can describe that to you. As I said, we didn't have
12 anything to put in the book for you.

13 MR. GOODWIN: So as it relates to Leo's
14 question about previously provided, we're going to get
15 some information now, but --

16 MS. HOLLOWAY: Correct.

17 MR. GOODWIN: -- we, the Department, through
18 staff, had asked for information, and we received none?

19 MS. HOLLOWAY: We notified them that we would
20 be coming to this meeting. The application that you just
21 dealt with sent us a letter that basically described the
22 information that Tamea and Barry gave you.

23 MR. GOODWIN: Okay.

24 MS. HOLLOWAY: That did not happen in this
25 case.

1 MR. GOODWIN: Okay.

2 MR. VASQUEZ: And just to clarify, to your
3 knowledge at this, has all the requirements been met
4 today?

5 MS. HOLLOWAY: I -- we don't have any evidence
6 of that.

7 MR. GOODWIN: Okay. Do you want to speak, sir?
8 I think before you speak, I need to ask for a motion to
9 hear comments regarding staff's presentation.

10 MR. VASQUEZ: So moved.

11 MR. GOODWIN: Second?

12 MS. THOMASON: Second.

13 MR. GOODWIN: Okay. All in favor, say aye.

14 (A chorus of ayes.)

15 MR. GOODWIN: Opposed?

16 (No response.)

17 MR. GOODWIN: Okay.

18 MR. FAIRFIELD: Thank you, sir. My name is
19 Stephan Fairfield. I'm with Covenant. We're a non-profit
20 service provider to the Montrose Center, who is the
21 applicant. We're an affiliate of Montrose Center, who is
22 the applicant, and [indiscernible 46:40] is very regretful
23 that the transaction was not able to close by the
24 deadline.

25 The reason for that is that, as we were going

1 through the City permit process, the City used
2 calculations for the net rentable square footage of the
3 building that included the balconies and porches. There
4 was a different calculation that the architect had used to
5 qualify the building as a single building under the City's
6 building code.

7 Because the City's calculation differed and put
8 it over a threshold to be classified as multiple
9 buildings, it resulted in having to go back and make
10 design and significant changes to the building in order to
11 put a firewall and additional stairs and ingress and
12 egress elements to the building.

13 So that added time to the process, both by
14 going back to design, redesigning, as well as time to go
15 back to permit the new changes to the designs. Those
16 changes, then, added to the costs of the project in such a
17 way that we were not able to execute a construction
18 contract, because the bids were running at the same time
19 the permitting process was running.

20 We did get our permits approved at the end of
21 September. We were in the closing process with our lender
22 and investor. Our investor is here, and can attest their
23 readiness to close the transaction. I have a letter here
24 from a lender that also attests their readiness to close.

25 The result is, we weren't able to execute the

1 construction contract within that time frame. So we have
2 now gone back. We are stripping out a number of balconies
3 and porches in order to get back underneath the City's
4 single building threshold, and then are going back to the
5 permitting process.

6 The designs are -- changes are being made now.
7 They will be resubmitted at this end of this month, early
8 next month, and we anticipate then it will take about four
9 to six weeks for the permit changes to be approved. At
10 the same time, our contractor will go and rebid the
11 project with these new changes, and we expect that that
12 will get us under threshold so that we can have a closing
13 in the first quarter.

14 MR. GOODWIN: Okay. Any questions?

15 MR. VASQUEZ: And you said your lender has
16 indicated their readiness to close?

17 MR. FAIRFIELD: Yes, sir.

18 MR. VASQUEZ: And will they continue? Is it
19 open-ended? I mean, how long will they keep it?

20 MR. FAIRFIELD: The lender said they intend to
21 provide the construction and permanent financing on the
22 project, and it's understood that this project will close
23 in the first quarter of 2019.

24 MR. GOODWIN: Other questions? Do you want to
25 speak, sir?

1 MR. ALDRIDGE: Sure.

2 MR. GOODWIN: Okay.

3 MR. ALDRIDGE: I'll be brief. Jason Aldridge
4 with National Equity Fund.

5 MR. GOODWIN: I need for you to sign in,
6 please.

7 MR. ALDRIDGE: Okay. So we are the purchaser
8 of the tax credits in the project. We just want to
9 confirm our commitment to the project. We're very
10 comfortable with the deal itself and the development team,
11 and we fully intend to close this, Q1 next year.

12 MR. GOODWIN: Okay. The real issue here in
13 front of the Board, as I understand it, isn't whether
14 you're going to close or not. It is whether or not we're
15 going to invoke a penalty of some magnitude for
16 applications that you as the applicant and/or affiliate
17 might submit in the 2019 round, as it relates to readiness
18 to close.

19 We hope you close. We hope you use the award.

20 We hope you provide the housing that the Texans you're
21 going to serve need, but it still doesn't change the fact
22 that we granted you five points under our readiness to
23 proceed program, and we have one of three remedies that we
24 as a Board need to decide that we're going to place on you
25 for the 2019 round.

1 So any --

2 MS. THOMASON: I do have a question.

3 MR. GOODWIN: Okay.

4 MS. THOMASON: So am I oversimplifying? This
5 may have just been a mistake on either the architect's
6 part or someone not knowing what the calculations would be
7 that were used by the City of Houston?

8 MR. FAIRFIELD: The architect did meet with the
9 City, and they thought that they understood the
10 calculation that the City was going to use. They met with
11 them in advance. I don't know if the person they met with
12 is the person that reviewed the plans.

13 So that -- I could get that information from
14 the architect. But they thought they understood the
15 calculation that was going to be made.

16 MR. GOODWIN: Beau, did you have a comment?

17 MR. ECCLES: I just have a question. I heard
18 you say that you're going to be stripping out balconies
19 and decks. So you're anticipating that there is going to
20 be a significant architectural change from what the
21 application shows?

22 MR. FAIRFIELD: It's not a significant change
23 in the sense that it's part of a point criteria. The
24 project still meets all of the points that are required
25 for the award, from an architectural point of view.

1 MS. THOMASON: And there was a comment about
2 the increased cost, but -- so is that increased cost just
3 from an architectural redesign standpoint, because you're
4 not adding the firewall and not doing things that would
5 have been required if it was the larger square footage?

6 MR. FAIRFIELD: That's the larger part of it.
7 We are making some changes to some of the finishes, the --
8 that we're changing the architect, that included some
9 structural steel, that we found a way of avoiding.

10 Because of the tariffs that are going on now,
11 we're trying to not have the steel required.

12 MS. THOMASON: Thank you. I'm just trying to
13 understand what would make this different from other
14 projects, the other 20 projects that did meet the
15 deadline. So --

16 MR. GOODWIN: So just as a reminder, any other
17 questions from Board members? Anyone else wanted to speak
18 to this issue? We kind of have three things we needed to
19 decide among, and number one is to make the applicant and
20 all of their affiliates of the applicant -- if I'm stating
21 that correctly, Marni?

22 MS. HOLLOWAY: Uh-huh.

23 MR. GOODWIN: Ineligible for any application in
24 2019, or any application that they submit in 2019 will
25 receive one -- a one-point deduction, or to do nothing.

1 And so I'm going to need a motion from someone that feels
2 which of those three you think is a proper course of
3 action to take on this.

4 It's not going to -- this project is going to
5 continue to proceed. It's not a vote on this project.
6 It's a vote on one of those remedies. So does anyone on
7 the Board have a strong feeling one way or the other as to
8 which you would recommend and would make a motion, so
9 moving?

10 I'm looking at all of you.

11 MR. VASQUEZ: Can I ask one more question?

12 MR. GOODWIN: Sure.

13 MR. FAIRFIELD: Yes, sir.

14 MR. VASQUEZ: Has the developer -- do you have
15 any projects going into the 2019 application process?

16 MR. FAIRFIELD: We -- we're not -- the
17 applicant -- I'm not aware that the applicant has -- and
18 I'm not the applicant. But I'm not aware that the
19 applicant has any projects going into the 2019 round.

20 MR. GOODWIN: I'll voice my feeling, and that
21 is that I think, you know, for the 20 that met this, I
22 understand the USDA that we talked about earlier was a
23 different circumstance, but I suspect all of the other 20
24 had some issue they dealt with their municipalities or
25 their entities and their governments.

1 I'm sorry that this has happened. I'm glad the
2 project is going to move forward, but I think that if this
3 is going to be one of our rules, I think it's important
4 for this Board to say that when you apply for these five
5 points and you don't meet them, I don't -- I would hate to
6 make somebody ineligible, if you've got a great
7 application coming up that -- maybe one you don't even
8 know about today.

9 But I do think that it would make sense to
10 enforce at least the one-point penalty, which again,
11 probably won't eliminate any of the good projects that you
12 might have coming forward. So that's kind of my opinion,
13 but I'm not going to make a motion since I'm the Chair.

14 MS. THOMASON: I will make a motion to deduct
15 one point from any of the 2019 applications from this --

16 MR. GOODWIN: Okay.

17 MS. THOMASON: -- developer.

18 MR. GOODWIN: Second?

19 MR. VASQUEZ: Applicant or affiliate?

20 MS. THOMASON: Or affiliate.

21 MR. GOODWIN: Yeah. So do I have a motion and
22 a second?

23 MR. CERVANTES: Second.

24 MR. GOODWIN: Okay. Discussion?

25 MS. BAST: I'm sorry. Cynthia Bast of Locke

1 Lord. We do represent the applicant on this, and I do
2 want to be clear as to the motion, because the rule goes
3 to a penalty to the applicant. The applicant here is
4 the -- and its affiliates -- the applicant here is the
5 Montrose Center, which is a Texas nonprofit based in
6 Houston.

7 Mr. Fairfield is a representative of Covenant,
8 which is the developer. The developer is not the
9 applicant, by definition, and so therefore, I just want to
10 clarify the record and make sure that the penalty is
11 applied to the applicant and the affiliate, as called for
12 in the rules.

13 Thank you.

14 MR. GOODWIN: Yes. Thank you, Cynthia. I --
15 would you take that clarification?

16 MS. THOMASON: I will clarify. Our motion was
17 to deduct one point from a 2019 application from the
18 applicant or affiliate of this project.

19 MR. GOODWIN: Okay. And the second agrees with
20 that clarification? Any other questions or discussion? If
21 not, all those in favor, say aye.

22 (A chorus of ayes.)

23 MR. GOODWIN: Opposed?

24 (No response.)

25 MR. GOODWIN: Thank you, sir.

1 MR. FAIRFIELD: Thank you, sir.

2 MR. GOODWIN: Item 6(c).

3 MS. HOLLOWAY: Andrew is going to be discussing
4 the [indiscernible 56:48] with you.

5 MR. GOODWIN: Okay. Good morning and welcome,
6 Andrew.

7 MR. SINNOTT: Good morning, Chairman Goodwin,
8 members of the Board. Andrew Sinnott, Multifamily Loan
9 Programs administrator. I'm here presenting the 2019-1
10 Multifamily Direct Loan Notice of Funding Availability.
11 We'll have -- under this notice, we'll have \$34,557,797
12 available for the development of affordable multifamily
13 rental housing.

14 Funding will be available under four set-
15 asides, \$6,615,058 in HOME funds, under the Community
16 Housing Development Organization, CHDO set-aside for
17 nonprofits that can be certified as CHDOs, proposing new
18 construction or rehabbed multifamily developments,
19 \$11,638,041 in TCAP repayment funds, and National Housing
20 Trust Fund under the supportive housing soft repayment
21 set-aside for application proposing new construction or
22 rehabilitation of developments serving supportive housing
23 population and/or developments that will restrict units to
24 30 percent AMI, that would not have those deep
25 affordability restrictions otherwise.

1 Four million in TCAP repayment funds will be
2 available under the preservation set-aside, which is a
3 set-aside that existed in previous NOFAs many years ago,
4 but which we haven't used in a while. Excuse me. This
5 set-aside is solely for applicants proposing
6 rehabilitation.

7 And then finally, we'll have \$12,304,698 in
8 HOME TCAP repayment funds and NSB programming from under
9 the general set-aside, which will be limited to new
10 construction activities this year, since we have the
11 preservation set-aside specifically for applications
12 proposing rehab.

13 Similar to last year's NOFA, there will be a
14 priority for applications with development sites in
15 individual assistance counties, as declared by FEMA,
16 through March 1, 2019. We have also added a range of
17 minimum required interest rates available in the NOFA this
18 year, since we deleted references to the recommended
19 interest rate -- minimum interest rate which was 4 percent
20 in the Multifamily Direct Loan Rule, Chapter 13.

21 The range of interest rates goes from zero to
22 3.5 percent, and is dependent mainly on three factors:
23 the set-aside, whether or not the application is layered
24 with housing tax credits, and whether or not the
25 Department will have a first lien position during the

1 permitting period.

2 Staff's motivation for structuring the minimum
3 required interest rates this way was to properly price in
4 the varying levels of risk, both in terms of repayment and
5 compliance that we are typically exposed to when our
6 direct loan is in a subordinate lien position, or when our
7 direct loan is used without the equity that tax credits
8 provide.

9 It should be noted that these are minimum
10 required interest rates, and not recommended interest
11 rates. Therefore, staff will have limited, if any,
12 ability to recommend a deal that is not feasible at these
13 minimum required interest rates.

14 We will begin accepting applications under the
15 NOFA on January 14, 2019, and continue to accept
16 applications through November 29, 2019, provided there are
17 sufficient funds. We hope to amend the NOFA in the coming
18 months with additional HOME and National Housing Trust
19 Fund, as those funds become available.

20 And I want to make a quick correction to the
21 NOFA that's before you today before you take any action.
22 On page 5 of the NOFA, under 6(f), under Section 6(f), it
23 should read: "The request for funds under the CHDO
24 supportive housing soft repayment preservation and general
25 set-asides may not be less than 300,000, regardless of the

1 set-aside under which an application is being submitted,"
2 with the following sentence under 6(f) remaining
3 unchanged. So it's just adding "preservation" to that
4 list of set-asides that cannot -- the request cannot be
5 less than \$300,000.

6 Finally, I want to note that we had discussed
7 the pre-development set-aside at a roundtable with
8 interested stakeholders last month, and in the draft NOFA
9 that we put on the forum, our online forum, a few weeks
10 ago, staff has determined that a special NOFA for pre-
11 development would make more sense than a set-side within
12 this NOFA.

13 So staff will be presenting the pre-development
14 NOFA at a future Board date.

15 MR. GOODWIN: Okay.

16 MR. SINNOTT: And that -- do you have any
17 questions?

18 MR. GOODWIN: Any questions for Andrew? If
19 not, do I hear a motion to accept staff's recommendation?

20 MR. ECCLES: Along with the clarification.

21 MR. GOODWIN: Along with the clarification.
22 Correct.

23 MR. BRADEN: So moved, with noted
24 clarification.

25 MR. GOODWIN: Okay. Second?

1 MS. THOMASON: Second.

2 MR. GOODWIN: It's been moved and seconded.

3 Any questions? All those in favor, say aye.

4 (A chorus of ayes.)

5 MR. GOODWIN: Opposed?

6 (No response.)

7 MR. GOODWIN: Okay.

8 MR. SINNOTT: Thank you.

9 MR. GOODWIN: Thank you, Andrew. Moving on to
10 Item 6(e).

11 MS. HOLLOWAY: Item 6(e) is "Presentation,
12 discussion and possible action regarding an Award of
13 Direct Loan Funds from the 2018-1 Multifamily Direct Loan
14 Notice of Funding Availability." This is Application
15 18019 that is requesting \$3,090,000 in direct loan funds
16 for Highlander Senior Village.

17 The development was awarded \$500,000 of
18 9 percent credits in July. They proposed new construction
19 of 66 one- and two-bedroom units for an elderly population
20 in Bulverde. Twenty of the units will carry additional
21 direct loan rent and income restrictions as the result of
22 an award.

23 The direct loan would cover a gap created by
24 reduction of the permanent debt that was described in the
25 9 percent application along with increased costs. The

1 increased loan proceeds, along with a permanent debt
2 interest reduction of 4.85 percent to 4.43 percent, allows
3 the deferred developer fee to be reduced by \$313,564 and
4 is paid in four years, rather than eight.

5 The applicant's compliance history is
6 designated as a small portfolio category four and was
7 deemed acceptable by ERAP. The direct loan rule requires
8 applications for developments that were previously awarded
9 Department funds under any program to be found eligible by
10 the Board.

11 The applicant has provided evidence of adverse
12 factors beyond their control that could materially impair
13 their ability to provide affordable housing, as criteria
14 for the Board to consider in affirming their eligibility.

15 Specifically, the applicant has increased project costs
16 as a result of the development site's location near a
17 floodplain and the Edwards Aquifer Recharge Zone.

18 This request would be funded with HOME funds
19 that will help the Department to meet HUD expenditures
20 deadlines, and while we don't have commitment deadlines at
21 the moment, we do have expenditure deadlines before you,
22 and we need to be mindful of those.

23 Staff recommends that the Board find this
24 application eligible due to increased project costs and
25 recommends that an award of \$3,090,000 in HOME funds from

1 the 2018-1 NOFA for Highlander Senior Village be approved.

2 I'd be happy to take any questions.

3 MR. VASQUEZ: Marni, to clarify --

4 MS. HOLLOWAY: Uh-huh.

5 MR. VASQUEZ: -- okay. So this is not an
6 additional \$3 million in loans that they're asking for.

7 It's replacing --

8 MS. HOLLOWAY: In part, it's replacing --

9 MR. VASQUEZ: Part of the Sterling --

10 MS. HOLLOWAY: -- part of the Sterling loan,
11 and then their increased costs. So it's not a dollar-for-
12 dollar replacement on the Sterling loan. It's both
13 things.

14 MR. VASQUEZ: Substantially, it's not a total
15 increase in loans. It's --

16 MS. HOLLOWAY: Yes.

17 MR. VASQUEZ: -- substantially replacing --

18 MS. HOLLOWAY: Substantially, yes.

19 MR. VASQUEZ: -- and replacing in part?

20 MS. HOLLOWAY: Uh-huh.

21 MR. VASQUEZ: And then, overall, it's lowering
22 the interest rate on the project?

23 MS. HOLLOWAY: And lowers the overall rate.

24 Yes.

25 MR. VASQUEZ: But we are at a 4 percent rate,

1 albeit a 40-year amortization, but -- so we're actually --
2 it's not one of these zero interest loans. It's just --

3 MS. HOLLOWAY: No, it's not.

4 MR. VASQUEZ: Okay. Thanks.

5 MR. GOODWIN: Any other questions? If not,
6 I'll entertain a motion to accept staff's recommendation.

7 MR. VASQUEZ: I'll move to accept staff's
8 recommendation as presented.

9 MR. GOODWIN: Second?

10 MS. THOMASON: Second.

11 MR. GOODWIN: Okay. It's been moved and
12 seconded. Any other discussion or questions? All those
13 in favor, say aye.

14 (A chorus of ayes.)

15 MR. GOODWIN: Opposed?

16 (No response.)

17 MR. GOODWIN: Okay. That concludes our action
18 item agenda.

19 MS. HOLLOWAY: Thank you.

20 MR. VASQUEZ: Mr. Chairman, if I may? I mean
21 to make this statement at the time that it was going on.
22 I would just encourage all applicants, developers,
23 financiers, investors -- whenever there's a problem that
24 you see with a project, communicate that at the earliest
25 possible moment to staff and follow up in writing to

1 staff, so that we have a record of -- to see what efforts
2 and communications have been made.

3 Because by the time it reaches the Board and we
4 don't see documentation here in the file, I look at that
5 with great skepticism, versus seeing that there's letters
6 and communications and explanations and the staff having
7 said, yes, I spoke to the developer, applicant, ahead of
8 time.

9 So just at least from my perspective, it
10 changes how favorably I might look at the issue in
11 question.

12 MR. GOODWIN: Thank you, sir. And I agree with
13 you wholeheartedly. We are at that point in the agenda
14 where we'll take public comments or comments that will
15 support agenda items for future Board meetings. Are there
16 any such items?

17 (No response.)

18 MR. GOODWIN: Okay. Before I entertain a
19 motion to adjourn this meeting, I would like to, since it
20 is the last meeting of the year, recognize that we have
21 started the last meeting of the year, and hopefully, we
22 will [indiscernible 1:07:14] for the next part of next
23 year, at least the first half, with our new executive
24 director -- executive administrator --

25 MR. ECCLES: Acting director.

1 MR. GOODWIN: Acting director. I'm sorry. I
2 don't remember all those titles very well. In my world,
3 they're not that big a deal, you know. You're either a
4 man or not a man. So a man -- you can either be the man
5 or the woman.

6 The acting director, David Cervantes, has now
7 been on the job for a total of five days and has done a
8 wonderful job, so congratulations, and we're glad to have
9 you.

10 MR. CERVANTES: First Board meeting. Thank you
11 so much.

12 MR. GOODWIN: And I know many of you out there
13 that are in the industry that have cornered me in the
14 hallways and in the bathrooms and on phone calls and
15 things. Always, you start out with one phrase that always
16 come out, and this time of year, I think it's well to
17 recognize all of you for saying that, and that is that the
18 staff of the Texas Department of Housing and Community
19 Affairs are made up of people with big hearts, great
20 minds.

21 They care about the people that you are
22 serving. They care about serving you, and they care about
23 their jobs. And over the years that I've been on this
24 Board, I can say, without question, that is true, and I'd
25 like for all of the staff members that are here at the

1 meeting to stand up and let you acknowledge them, and the
2 Board acknowledge them, with a round of applause.

3 (Applause.)

4 MR. GOODWIN: And I guess by the lack of
5 standing, Beau and David don't plan to be around very
6 long. We meant that too for you, Beau, as well, I want
7 you to know.

8 And I would like to, at the end of the year,
9 make a very heartfelt note of gratitude to the other Board
10 members for the time and energy that you've put into this
11 Agency, and for the goodness out of your heart, and as far
12 as the former Board chair used to say, for the extremely
13 high pay that you receive, we even more appreciate what
14 you've done. So with that all being said, unless anyone
15 else has something else to add, I would entertain a motion
16 to adjourn.

17 MR. VASQUEZ: So moved.

18 MS. THOMASON: Second.

19 MR. GOODWIN: Second? All right. All in
20 favor, say aye.

21 (A chorus of ayes.)

22 MR. GOODWIN: Happy new year, happy holidays,
23 and we'll see you next year.

24 (Whereupon, at 9:00 a.m., the meeting was
25 adjourned.)

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

MEETING OF: TDHCA Board
LOCATION: Austin, Texas
DATE: December 6, 2018

I do hereby certify that the foregoing pages, numbers 1 through 60, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Leslie Berridge before the Texas Department of Housing and Community Affairs.

DATE: December 10, 2018

/s/ Adrienne Evans-Stark
(Transcriber)

On the Record Reporting &
Transcription, Inc.
7703 N. Lamar Blvd., Ste 515
Austin, Texas 78752