Minutes

Texas Bond Review Board

Planning Session

Tuesday, November 9, 2021, 10:00 a.m.

Capitol Extension, Room E2.028

And Videoconference Meeting

1100 Congress Ave.

Austin, TX 78701

The Texas Bond Review Board (BRB) convened in a planning session at 10:00 a.m., Tuesday, November 9, 2021, in Room E2.028 of the Capitol Extension and via videoconference as authorized under Texas Government Code section 551.127. Present were Brady Franks, Chair and Alternate for Governor Greg Abbott; Joaquin Guadarrama, Alternate for Lieutenant Governor Dan Patrick; and Piper Montemayor, Alternate for Comptroller Glenn Hegar. Also, in attendance were Leslie Brock and Veena Mohan with the Office of the Attorney General, Bond Finance Office staff members, and others.

1. **Call to Order**

Rob Latsha, Executive Director, called the meeting to order at 10:07 a.m. A quorum was present. He announced that this meeting will be held by videoconference call pursuant to Texas Government Code section 551.127. This meeting will include participation from one or more Bond Review Board members by remote videoconference. In accordance with the Texas Open Meetings Act, Bond Review Board members participating by videoconference shall be considered as being present for all purposes in the meeting. No votes would be taken.

1. **Texas Department of Housing and Community Affairs Request for Annual Waiver of the Section 2306.142(l) Requirements pursuant to Texas Government Code 2306.142(m) for calendar year 2022**

Representative present was Monica Galuski, Director of Bond Finance and Chief Investment Officer, TDHCA.

At its October 14, 2021 meeting, the TDHCA Board was presented with a report dated September 27, 2021 from its financial advisor, Stifel Public Finance (successor to George K. Baum & Company), addressing the feasibility and potential economic impact to the Department of fulfilling the Texas Government Code (TGC) Section 2306.142(l) requirements. This report has been submitted to the Bond Review Board (BRB).

Pursuant to TGC Section 2306.142(m) the Department is requesting the BRB approve an annual waiver of TGC Section 2306.142(l) through calendar year 2022. Prior to the first annual waiver request in 2017, a waiver had been requested with each of the Department’s new-money transactions based on TDHCA’s determination that it is unfeasible or will damage the financial condition of TDHCA to issue bonds with the restrictions contained in TGC Section 2306.142(l).

TDHCA Single Family Bonds are special, limited obligations of TDHCA, payable solely out of the revenues, receipts, and security pledged under the Single Family Indenture. The Bonds do not constitute a general obligation of the state of Texas.

The Department last conducted a market study pursuant to TGC Section 2306.142(l) to assess home mortgage credit needs in underserved economic and geographic submarkets in August 2002.

As of August 31, 2021, TDHCA’s Single Family Mortgage Revenue Bond Indenture had $679,463,931 in bonds outstanding, of which $49,705,000 was variable rate with $48,660,000 in related swaps outstanding. TDHCA’s Residential Mortgage Revenue Bond Indenture had $312,528,733 in bonds and notes outstanding with no variable rate debt or swaps outstanding.

Monica Galuski addressed the Board.

1. **Texas Department of Housing and Community Affairs Multifamily Housing Revenue Bonds (Meadowbrook Apartments), Series 2021**

Representative present was Teresa Morales, Director of Multifamily Bonds, TDHCA.

The Department has submitted an application to issue its tax-exempt Multifamily Housing Revenue Bonds (Meadowbrook Apartments) Series 2021 with a maximum par amount and a maximum total proceeds amount not to exceed $30,000,000 including premiums, if any. The total cost for the Meadowbrook project is estimated to be $44,890,224 to be funded from a combination of sources including proceeds of tax-exempt bonds, tax credit equity, and deferred developer fees.

The proceeds of the bonds will be used to construct Meadowbrook, a new 180-unit affordable multifamily residential rental development in Dallas, Texas.

Per the TDHCA underwriting report, the Property will be constructed in Flood Zone X (areas determined to be outside the 0.2 percent annual chance of flooding) within the 500-year floodplain

The bonds will be issued pursuant to Chapter 2306 of the Texas Government Code.

The Private Activity Bond (PAB) certificate of reservation was issued to TDHCA on June 9, 2021 and expires on December 6, 2021.

The TDHCA Board is expected to approve the final resolution for the bond issuance at its November 10, 2021 Board meeting.

The bonds will be sold through a private placement sale as unrated, tax-exempt, revenue, self-supporting, Fixed-rate debt with a 16-year term, amortization of 40 years, and a balloon payment. The average life is expected to be 25.769 years. The final maturity date will be on November 1, 2061.

Under the proposed structure, the Department will issue fixed rate tax-exempt multifamily bonds in the amount of $30,000,000 that will be purchased by R4 Capital Funding (R4), who will be serving as the construction and permanent lender. The interest rate on the bonds will be locked prior to closing and will be equal to the 10-year US Treasury Index plus 2.80%.

R4 will also provide a taxable construction loan in the amount of $4,000,000 that will carry an interest rate equal to the 3-year US Treasury Index plus 3.95%.

TDHCA is acting as a conduit issuer for this transaction and as such the bonds do not constitute an obligation, debt, or liability of the state of Texas, or a pledge or loan of faith, credit, or taxing power of the state of Texas. The bonds are special limited obligations payable from revenues earned from the mortgage loan and earnings derived from amounts on deposit in an investment agreement.

The anticipated closing date is expected to be November 23, 2021. The total cost of issuance

is expected to be $607,600 or $20.25 cost per $1,000 bond.

The Department has underwritten the project with a pro forma average rent of $1,205 and

occupancy of 92.5%. The overall occupancy reported in the market is 97.6%, and the average market rent in the area is $1,567. The breakeven rent and the breakeven occupancy needed to meet debt-service requirements for the Property are expected to be $1,082/mo. and 83.2%, respectively.

The lowest DCR of 1.18 occurs in year 1.

In accordance with recent published guidance by the IRS, a telephonic hearing was held on September 8, 2021. The Department has received no letters of support or opposition for this development.

Teresa Morales addressed the Board and answered questions.

1. **Texas Department of Housing and Community Affairs Governmental Lender Note (Fiji Lofts), Series 2021**

Representative present was Teresa Morales, Director of Multifamily Bonds, TDHCA.

The Department has submitted an application to issue its Governmental Lender Note (Fiji Lofts), Series 2021 (The Note) in a maximum par amount and a maximum total proceeds amount not to exceed $25,000,000 including premiums, if any. The total cost for the Fiji Lofts project is estimated to be $44,595,707, to be funded from a combination of sources including proceeds from the Note, housing tax credits, and a deferred developer fee.

The proceeds of the Note will be used for site acquisition, construction, and equipping of Fiji Lofts, a new 174-unit affordable multifamily residential rental development to be located at 301 Corinth St. Road, Dallas, Dallas County, Texas.

The Note will be issued pursuant to Chapter 2306 of the Texas Government Code.

The Private Activity Bond (PAB) Certificate of Reservation was issued to TDHCA June 14, 2021 and expires December 11, 2021.

The final Bond Resolution is expected to be approved by the TDHCA Board on November 10, 2021.

The Note will be privately placed as unrated, self-supporting, tax-exempt, fixed rate revenue bonds (termed a governmental lender note) in the amount of $23,849,000 that will be purchased by CommunityBank of Texas, who will serve as the construction and permanent lender.

CommunityBank will acquire the Note at closing. The construction phase of the loan will have a term of 30 months, plus two 6-month extension options. Payments during the construction phase will be interest only. For both the construction and permanent phases of the loan the interest rate will be equal to the 19-year LIBOR Swap Index (with a floor of 0.75%) plus a spread of 2.05% and will be fixed prior to closing. The Note will have an 18-year term, a 40-year amortization, and an expected average life of 16.944 years. TDHCA staff confirmed there is no swap associated with the financing structure of this transaction.

CommunityBank will provide a taxable construction loan in the amount of $9,500,000, payments on which will be interest only. The interest rate on the taxable construction loan will be variable, equal to the 30-Day Compounded average SOFR (with a floor of 0.39%) as published on the Fed’s website plus a spread of 2.86% and will be adjusted monthly.

TDHCA is acting as a conduit issuer for this transaction and as such the Note does not constitute an obligation, debt or liability of the state of Texas, or a pledge or loan of faith, credit or taxing power of the state of Texas. The Note is a special limited obligation payable from revenues on the mortgage loan, and earnings derived from amounts on deposit in an investment agreement.

The anticipated closing date is on December 9, 2021. The total cost of issuance is expected to be $668,080 or $26.72 cost per $1,000 bond. The lowest DCR of 1.15 will occur in year 1.

The Department has underwritten the project with a pro forma average rent of $1,044/mo. and occupancy of 92.5%. The breakeven rent and breakeven occupancy needed to meet debt-service requirements for the Property are expected to be $955/mo., and 84.8%, respectively. The average market rent for the area is $1,362/mo. And the overall occupancy in the market is 97%.

In accordance with recent published guidance by the IRS, a telephonic public TEFRA hearing was conducted by the Department for the Property on September 9, 2021. TDHCA received one letter of support for the proposed development, from Carolyn King Arnold, City of Dallas Councilmember for District 4. No letters of opposition from members of the community were received.

Teresa Morales addressed the Board and answered questions.

1. **EXEMPT – Texas State Affordable Housing Corporation Multifamily Mortgage Revenue Notes (Sandpiper Cove Apartments), Series 2021A-1 and 2021A-2**

This transaction was submitted on the BRB EXEMPT track. The Board’s 6-day review period began on November 4, 2021 and will expire on November 12, 2021. Because of the complexity of this transaction, BRB staff recommended it be called in for full review.

Representative present was David Danenfelzer, Senior Director, TSAHC.

The transaction qualifies for exempt approval under the BRB rules because the Borrower will not be seeking a property tax exemption upon completion of the project.

TSAHC is seeking approval for the issuance of its Texas State Affordable Housing Corporation Multifamily Mortgage Revenue Notes (Sandpiper Cove Apartments) Series 2021A-1 and Series 2021A-2 (the Notes) in an aggregate maximum par amount and maximum total proceeds amount not to exceed $37,500,000 including premiums, if any.

The proposed acquisition and rehabilitation of the Property has a total budget of approximately $45,102,045. The financing includes long‐term tax‐exempt bonds, 4% housing tax credits, federal and state historic tax credits, and a deferred developer fee. Roughly $16.6 million will be used for property acquisition costs, with a total rehabilitation of $16.4 million, or $85,403 per unit. The rehabilitation costs noted include site work (off‐site and on‐site) and site amenities totaling $3.3 million. Financing costs, soft costs, developer fees and reserves account for the remaining $12 million.

Housing tax credits will total $15.1 million, with state and federal historic tax credits adding another $8.1 million. A deferred developer fees of approximately $1.3 million will cover the remaining balance of permanent funding needs.

The proceeds of the Notes will be used for the acquisition, rehabilitation, and equipping of an existing two-story garden style qualified residential rental project serving low-income families known as Sandpiper Cove Apartments.

In July 2020, tenants of Sandpiper Cove Apartments with legal support provided by Lone Star Legal Aid, filed a lawsuit against the US Department of Housing and Urban Development requesting the federal courts to require HUD to enforce its policies related to Section 8 rental assistance contracts. This case is still making its way through the federal court system.

If HUD loses the suit and is required by the courts to convert the project‐based subsidy into tenant‐based vouchers, tenants would be allowed to move from the Property and take rental subsidies with them.

According to a letter from HUD Southwest Multifamily Region addressed to TSAHC staff on November 1, 2021, the plaintiffs in the Sandpiper case are seeking Tenant Protection Vouchers and not the termination of the Property’s HAP Contract. Therefore, if the plaintiffs in the Sandpiper case prevail, the project is not at risk of losing its HAP Contract. See Comments section for more detail.

TSAHC will issue the Notes pursuant to Texas Government Code Subchapter Y, Sections 2306.553, 2306.555, and 2306.565, as amended.

The TSAHC Board approved the final resolution for the Notes at its meeting on October 13, 2021.

The PAB reservation was issued to TSAHC on August 9, 2021 and expires on February 5, 2022.

The TDHCA Board approved the housing tax credits at its Board meeting held on March 11, 2021.

The historic tax credit nomination for the development was approved by the Texas Historical Commission in September 2021 and will be submitted to the National Park Service for final approval in the next two weeks. The final approval occurs once construction is completed, and the architect certifies that all requirements have been met.

The Notes will be privately placed as self-supporting, unrated, tax-exempt, fixed-rate debt with an estimated interest rate of 4.03%, 18-year term, and 35-year amortization with a balloon payment and a final maturity date of January 1, 2040. The Series 2021A-1 is expected to have a par amount of $22,500,000 and the Series 2021A-2 is expected to have a par amount of $5,000,000. The Series 2021A-1 notes are expected to have an average life of 16.911 years, and the Series 2021A-2 notes are expected to have an average life of 2.042 years.

TSAHC is acting as a conduit issuer and as such the Notes do not constitute an obligation, debt or liability of the State of Texas, or a pledge or loan of faith, credit, or taxing power of the State of Texas.

The anticipated closing date is December 16, 2021. The total cost of issuances is estimated at $790,250 or $28.74 cost per $1,000 bond.

Per TSAHC staff, TSAHC has never had a transaction that involved a tenant lawsuit, or any other lawsuit at the time of approval. There is no set timeline for resolving the lawsuit. Per Lone Star Legal Aid, the suit was amended on 9/22/2021, and TSAHC has not received a timeline for the court to move forward with the suit or provide any judgements at this time.

Per TDHCA staff, this is the first time TDHCA has approved an application for tax credits for a rehabilitation project where HUD is in the process of being sued by existing tenants of a property.

Regarding the financial implications if the court sides with the tenants in the lawsuit, assurances were provided by HUD and legal counsel to the developer that there should be no impact on the feasibility of the project.

Per TSAHC staff, if the tenant's win their suit, HUD will continue to honor the project based rental contract and have to provide tenant-based vouchers to the tenant's that wish to leave. Given the very long wait list for affordable housing in Galveston, TSAHC staff believe the units would refill quickly.

David Danenfelzer addressed the Board and answered questions.

1. **Public Comment**

There were no public comments.

1. **Date for Next Board Meeting**

The next Board Meeting is scheduled for Thursday, November 18, 2021, at 10am in Room E2.028 of the Capitol Extension.

1. **Items for Future Agendas**

Each Board member received an updated list of future agenda items. It is the Chair’s intent to add an item to the next Board meeting to discuss the compensation of the Executive Director.

1. **Report from the Executive Director**
   * During fiscal year 2021, BRB staff received 2,140 transactions for processing. This is the most transactions every received during one fiscal year. An overview of local debt totals will be published in Chapter 1 of the agency’s 2021 State Debt Annual Report by December 1, 2021. Afterwards, BRB staff will begin working on the 2021 Local Debt Annual Report.
   * BRB staff held the 2022 Private Activity Bond Lottery on November 4, 2021. Staff received 190 applications which was a record number of applications received and a 144% increase from the 78 applications received for last year’s lottery.
   * BRB staff plans to send a draft copy of the 2021 State Debt Annual Report to the Board by Tuesday, November 23, 2021. A final version of the report will be published on the agency’s website on December 1, 2021.
2. **Adjourn**

There being no further business, the planning sessionwas adjourned at 10:47 a.m.