

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

GOVERNING BOARD MEETING

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

December 12, 2019
9:30 a.m.

MEMBERS:

J.B. GOODWIN, Chair
LESLIE BINGHAM ESCAREÑO, Vice Chair (absent)
PAUL A. BRADEN, Member
ASUSENA RESÉDIZ, Member (absent)
SHARON THOMASON, Member
LEO VASQUEZ, Member

BOBBY WILKINSON, Executive Director

ON THE RECORD REPORTING
(512) 450-0342

I N D E X

<u>AGENDA ITEM</u>	<u>PAGE</u>
CALL TO ORDER	9
ROLL CALL	9
CERTIFICATION OF QUORUM	9
CONSENT AGENDA	
ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:	12
EXECUTIVE	
a) Presentation, discussion, and possible action on Board meeting minutes summary for September 5, 2019	
ASSET MANAGEMENT	
b) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application 95093 Paseo Plaza Apartments Brownsville 17390 Las Palomas McAllen 17445 Nightingale at Goodnight Ranch Austin	
c) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Land Use Restriction Agreement 00078 Cypress Ridge Nacogdoches 01166 Churchill Place La Porte 02020 Kings Row Apartments Houston	
d) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application and Multifamily Direct Loan Application 12269/1001750 Stonebridge of Kelsey Park Lubbock	
e) Presentation, discussion, and possible action regarding approval of a Multifamily Direct Loan subordination 1002050 Emma Finke Villas Beeville	
COMPLIANCE	
f) Presentation, discussion, and possible action on a Dispute of the Compliance Division's assessment of the Applicant's compliance history to be reported to the Executive Award Review Advisory Committee regarding Fish Pond at Corpus Christi (19610)	

COMMUNITY AFFAIRS

- g) Presentation, discussion, and possible action on an increase in the annual expenditures for the use of the U.S. Citizenship and Immigration Services' Systematic Alien Verification for Entitlements program from \$8,000 to \$15,000 pursuant to Tex. Gov't Code §2155.088(b)(2)

HOME AND HOMELESSNESS PROGRAMS

- h) Presentation, discussion, and possible action on an amendment to the 2018 Emergency Solutions Grants Program Contract for Randy Sams' Outreach Shelter, Inc. and approval of a Contract Term for the City of Texarkana's Ending Homelessness Fund Contract

LEGAL

- i) Presentation, discussion, and possible action regarding the adoption of four Agreed Final Orders concerning properties owned by Center for Housing and Economic Opportunities Corporation, including Milam Creek Senior Village (HOME 1000555 / CMTS 4313), Milam Creek Senior Village II (HOME 1001214 / CMTS 4722), Alta Vista Village Retirement Community (HOME 531300 / CMTS 4006), and Floresville Senior Housing (HOME 1000969 / CMTS 4515)
- j) Presentation and Discussion on Report to Board regarding administrative penalties and initiation of a contested case hearing, and the adoption of an Agreed Final Order as a final settlement offer for Cottonwood and Westway Apartments (HTC70111 / CMTS 2298)

BOND FINANCE

- k) Presentation, discussion, and possible action on Resolution No. 20-008 authorizing the filing of one or more applications for reservation with the Texas Bond Review Board with respect to qualified mortgage bonds and containing other provisions relating to the subject

MULTIFAMILY FINANCE

- l) Presentation, discussion, and possible action regarding a waiver of certain requirements in 10 TAC §13.11 for Sierra Royale Apartments (TCAP RF Contract #13150019503)
- m) Presentation, discussion, and possible action regarding the approval for publication in the

Texas Register of the 2020-3 Multifamily Direct
Loan Special Purpose Notice of Funding
Availability

SECTION 811

- n) Presentation, discussion, and possible action authorizing the Department to submit an application for FY 2019 Project Rental Assistance of Section 811 Supportive Housing for Persons with Disabilities Notice of Funding Availability released by the U.S. Department of Housing and Urban Development, and if successfully awarded to operate such program

RULES

- o) Presentation, discussion, and possible action on the draft 2020 State of Texas Low Income Housing Plan and Annual Report; proposed repeal of 10 TAC Chapter 1, Subchapter A, General Policies and Procedures, §1.23 concerning State of Texas Low Income Housing Plan and Annual Report; 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*
- p) Presentation, discussion, and possible action on an order proposing amendments to 10 TAC §8.7, Tenant Selection and Screening; an order proposing amendments to 10 TAC §23.61, Tenant-Based Rental Assistance (TBRA) General Requirements; and directing their publication in the *Texas Register*

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) Outreach and Activities Report (Nov-Dec)
b) Quarterly Report on Texas Homeownership Division Activity
c) Report on the Draft Computation of Housing Finance Division Total and Unencumbered Fund Balances and Transfers to the Housing Trust Fund
d) Report of the 2021 and 2022 QAP Planning Process

ACTION ITEMS

ITEM 3: INTERNAL AUDIT

- a) Report on the meeting of the Internal Audit 13

and Finance Committee

- b) Presentation, discussion, and possible approval of the Annual Internal Audit Plan for Fiscal Year 2020 14

ITEM 4: OCI, HTF, AND NSP

- a) Presentation, discussion, and possible action on a proposed amendment to the 2020-2021 State Housing Trust Fund Biennial Plan and authorization for staff to submit the amended plan to all appropriate offices 15

ITEM 5: COMMUNITY AFFAIRS

- a) Presentation, discussion, and possible action on the Federal Fiscal Year 2020 Low Income Home Energy Assistance Program Community Energy Assistance Program award for Galveston County Community Action Council, Inc. 17
- b) Presentation, discussion, and possible action authorizing the Department to submit an application for Community Services Block Grant disaster supplemental funding in response to an action transmittal released by the U.S. Department of Health and Human Services, and if successfully awarded to administer such funds 24

ITEM 6: BOND FINANCE

- a) Presentation, discussion, and possible action regarding Resolution No. 20-009 authorizing the implementation of Texas Department of Housing and Community Affairs Mortgage Credit Certificate Program 94, approving the form and substance of the program manual and the program summary, authorizing the execution of documents and instruments necessary or convenient to carry out Mortgage Credit Certificate Program 94, and containing other provisions relating to the subject 30

ITEM 7: MULTIFAMILY FINANCE

- a) Presentation, discussion, and possible action regarding the issuance of Determination Notices for 4% Housing Tax Credit Applications 32
- 19443 Spanish Park Arlington
19473 Flora Lofts Dallas
19470 Jackie Robinson El Paso
19400 Villas del San Xavier San Marcos
19467 Auro Crossing Austin ETJ

- b) Presentation, discussion, and possible action PULLED
on a waiver of 10 TAC §11.3 of the Qualified
Allocation Plan related to Housing
De-Concentration Factors for Austin Manor
Apartment Homes (#19471) in the
extraterritorial jurisdiction of Austin
- c) Presentation, discussion, and possible action 34
on a Determination Notice for Housing Tax
Credits and an Award of Direct Loan Funds
for The Walzem (#19468) in San Antonio ETJ
- d) Presentation, discussion and possible action 36
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
17239 Abbington Ranch Boerne
17736 Providence at Ted Trout Drive Hudson
18376 Lakeview Point Apartments Garland
17700 The Terraces at Arboretum Houston
- e) Presentation, discussion, and possible action 61
to adopt the 2020 Multifamily Programs
Application Procedures Manual
- f) Presentation, discussion, and possible action 62
regarding the approval for publication in the
Texas Register of the 2020-1 Multifamily Direct
Loan Annual Notice of Funding Availability
- g) Presentation, discussion, and possible action 65
regarding awards of Direct Loan funds from the
2019-1 Multifamily Direct Loan Notice of
Funding Availability
19053 Laurel Creek Apartments Austin
19508 Roosevelt Gardens Austin

ITEM 8: RULES

- a) Presentation, discussion, and possible action 74
on an order adopting the repeal of 10 TAC
Chapter 13, Multifamily Direct Loan Rule,
and an order adopting the new 10 TAC Chapter
13, Multifamily Direct Loan Rule, and directing
both its publication in the *Texas Register*
and adoption of its Substantial Amendment to
the One Year Action Plan (OYAP)
- b) Presentation, discussion, and possible action 77
on an order adopting the repeal of 10 TAC,

Subchapter A, Administration, §1.7, Appeals Process; an order adopting new 10 TAC, Subchapter A, Administration, §1.7, Appeals Process; and directing that they be published in the *Texas Register*

- c) Presentation, discussion, and possible action 80
on an order proposing new 10 TAC, Chapter 10, Subchapter G, Affirmative Marketing Requirements and Written Policies and Procedures, and directing its publication for public comment in the *Texas Register*
- d) Presentation, discussion, and possible action 81
on an order adopting the repeal of 10 TAC Chapter 6, Community Affairs Programs; an order adopting new 10 TAC Chapter 6, Community Affairs Programs; and directing that they be published for adoption in the *Texas Register*
- e) Presentation, discussion, and possible action 83
on amendments to Title 10, Part 1, Chapter 10, Subchapter F of the Texas Administrative Code, in particular 10 TAC §10.602 Notice to Owners and Corrective Action Periods; §10.605 Elections under IRC §42(g); §10.607 Reporting Requirements; §10.609 Notices to the Department; §10.610 Written Policies and Procedures, §10.611 Determination, Documentation and Certification of Annual Income; §10.612 Tenant File Requirements; §10.613 Lease Requirements; §10.614 Utility Allowances; §10.615 Elections under IRC §42(g); Additional Income and Rent Restrictions for HTC, Exchange, and TCAP Developments; §10.616 Household Unit Transfer Requirements for All Programs; §10.617 Affirmative Marketing Requirements, §10.618 Onsite Monitoring; §10.622 Special Rules Regarding Rents and Rent Limit Violations; §10.623 Monitoring Procedures for Housing Tax Credit Properties After the Compliance Period; §10.624 Compliance Requirements for Developments with 811 PRA Units; and Figure §10.625; and directing that they be published for public comment in the *Texas Register*
- f) Presentation, discussion, and possible action PULLED
on an order approving the repeal of 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and an order adopting new 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and directing

their publication in the *Texas Register*

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS	none
EXECUTIVE SESSION	none
OPEN SESSION	--
ADJOURN	92

P R O C E E D I N G S

1
2 MR. GOODWIN: Good morning and welcome to the
3 December 12 Board meeting for the Texas Department of
4 Housing and Community Affairs. We will begin by taking
5 roll.

6 Mr. Vasquez?

7 MR. VASQUEZ: Here.

8 MR. GOODWIN: Ms. Thomason?

9 MS. THOMASON: Here.

10 MR. GOODWIN: Mr. Braden?

11 MR. BRADEN: Here.

12 MR. GOODWIN: Mr. Goodwin here.

13 We do have a quorum. So if you don't mind,
14 please stand and follow along as Bobby leads us in the
15 Pledge of Alliance to the American and Texas flag.

16 (The Pledge of Allegiance and Pledge of
17 Allegiance to Texas Flag were recited.)

18 MR. GOODWIN: So I will share with you what I
19 told the other Board members today, that the shame of me
20 resigning is that it took me five years to get to where I
21 now know the Pledge to the Texas Flag.

22 (General laughter.)

23 MR. GOODWIN: Beau has suggested I get up every
24 morning and recite it in memory of the service to the
25 Board, which I will gladly do, Beau.

1 Michael, we have a resolution.

2 MR. LYTTLE: Yes. Mr. Chairman and Board, the
3 resolution reads as follows:

4 "Whereas, more than 25,000 persons experiencing
5 homelessness were counted in Texas on one day during the
6 last two weeks of January 2018, including more than 1,300
7 unaccompanied homeless youth, as measured by the 2018
8 annual homeless assessment report,

9 "Whereas, the Texas Department of Housing and
10 Community Affairs awards state and federal funds to assist
11 nonprofits and local governments aid persons affected by
12 homelessness,

13 "Whereas, the Department's homeless programs
14 provided more than 38,000 services in state fiscal year
15 2019,

16 "Whereas, the Department awarded homeless
17 housing and services program general set-aside of
18 approximately \$4.9 million and the federally funded
19 Emergency Solutions Grants Program of approximately \$8.8
20 million in state fiscal year 2020,

21 "Whereas, the Department awarded funds for the
22 new state-funded homeless housing and services program
23 youth set-aside in the amount of \$1.5 million, and the new
24 donation-based Ending Homelessness Fund program of
25 approximately \$210,000 in state fiscal year 2020,

1 illustrating the ongoing commitment of Texas to alleviate
2 homelessness,

3 "Whereas, the Department recognizes the
4 perseverance of persons volunteering and working to
5 alleviate homelessness,

6 "Whereas, the Department recognizes the
7 struggle of persons striving to end their homelessness and
8 those who have lost their lives while experiencing
9 homelessness,

10 "Whereas, December 21, 2019, is the National
11 Homeless Persons Memorial Day, which annually falls on the
12 longest night of the year,

13 "Now, therefore, it is hereby resolved that the
14 governing Board of the Texas Department of Housing and
15 Community Affairs does hereby commemorate December 21,
16 2019, as Homeless Persons Memorial Day in Texas,

17 "Signed this 12 day of December, 2019."

18 MR. GOODWIN: Do I hear a motion to approve
19 this resolution?

20 MR. BRADEN: So moved.

21 MR. GOODWIN: A second?

22 MS. THOMASON: Second.

23 MR. GOODWIN: Any discussion? All those in
24 favor, say aye.

25 (A chorus of ayes.)

1 MR. GOODWIN: Opposed?

2 (No response.)

3 MR. GOODWIN: Okay. We're going to do a little
4 modification to the agenda, and before we do the consent
5 items, we will be pulling the following items: We'll be
6 pulling Item 7(b), and we'll be pulling Item 8(f).

7 Before I take a motion to approve the consent
8 agenda, are there any items on the consent agenda that any
9 member or person in the audience would like to see pulled
10 and discussed?

11 (No response.)

12 MR. GOODWIN: If not, I will entertain a motion
13 to approve the consent agenda.

14 MS. THOMASON: So moved.

15 MR. GOODWIN: It's been moved. Second?

16 MR. VASQUEZ: Second.

17 MR. GOODWIN: Moved and seconded. Any
18 discussion?

19 (No response.)

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

21 (A chorus of ayes.)

22 MR. GOODWIN: Opposed?

23 (No response.)

24 Okay. Moving on to the action items. Action
25 Item number 3, or Item number 3 on the action list, Report

1 on the Meeting of the Internal Audit and Finance
2 Committee. Ms. Thomason?

3 MS. THOMASON: Yes. We did - Audit and Finance
4 Committee, we did meet at eight o'clock this morning. We
5 did not have a quorum, so we did not take action on any
6 items.

7 The director of internal audit, Mr. Mark Scott,
8 discussed with us the 2020 Annual Internal Audit Plan. He
9 will be presenting that to us in a moment for approval.

10 The Director of Financial Administration, Ernie
11 Palacios, presented the Draft Computation of Unencumbered
12 Fund Balances, which was Item C on the Consent Agenda and
13 was just approved. So Mr. Scott will now present that
14 item to us.

15 We also had four report items in our meeting,
16 including the audit of performance measures, the audit of
17 the enforcement committee, the internal audit annual
18 report and then a report on recent external audit
19 activities.

20 Mr. Scott will be here to answer any questions,
21 and he will present the internal audit plan for the full
22 Board.

23 MR. GOODWIN: Thank you.

24 MS. THOMASON: Thank you.

25 MR. GOODWIN: Mr. Scott?

1 MR. SCOTT: Good morning, Chairman Goodwin,
2 Board Members. As Ms. Thomason noted, this item is the
3 2020 Internal Audit Plan. The Internal Auditing Act
4 requires that the plan be approved by the Agency's
5 governing board.

6 The Internal Audit Plan for 2020 was prepared
7 by utilizing a standard risk assessment matrix. We also
8 gathered input from management, the State Auditor's
9 office, and others.

10 We also -- as Ms. Thomason mentioned, we
11 discussed it at length in the Committee this morning. The
12 audit plan was in both books, the Audit Committee book and
13 the Full Board book.

14 So are there any questions on the audit plan?

15 MR. GOODWIN: Anybody have any questions? Do I
16 hear a motion to approve Mark's presentation? Are you
17 finished?

18 MR. SCOTT: Yes. So to comply with the
19 statute, I'm requesting approval by the full Board of the
20 2020 Internal Audit Plan.

21 MR. GOODWIN: Do I hear a motion for approval?

22 MR. THOMASON: A motion for approval.

23 MR. GOODWIN: Second?

24 MR. VASQUEZ: Second.

25 MR. GOODWIN: Any discussion?

1 (No response.)

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

3 (A chorus of ayes.)

4 MR. GOODWIN: Opposed?

5 (No response.)

6 MR. GOODWIN: Thank you, Mark.

7 MR. SCOTT: Thank you very much.

8 MR. GOODWIN: Great job. Next we have Item 4.

9 Raul?

10 MR. GONZALES: Good morning, Board members. My

11 name is Raul Gonzales, Director of Housing Trust Fund

12 Division. Today we're presenting Item 4(a), which is to

13 amend the 2020-2021 Texas Housing Trust Fund Plan. Back

14 in the June Board meeting, the Board approved the housing

15 trust fund plan outlining its use of general revenue.

16 The housing trust fund plan focuses on two

17 programs, the Texas Bootstrap Loan Program and the Amy

18 Young Barrier Removal Program.

19 At the October Board meeting, the Board adopted

20 the new 10 TAC chapter 26, which is the Housing Trust Fund

21 Program, and the rules for the Amy Young Program.

22 The adopted rule changes included removing the

23 \$20,000 Amy Young funding cap per household so that the

24 Department could keep pace with rising construction costs.

25 So for 2020-2021 the Department will be raising

1 the maximum Amy Young assistance amount per household from
2 \$20,000 to \$22,500, and we wish to publish this new higher
3 amount in our next notice of funding in January, which is
4 for \$1.54 million.

5 Since the program's inception in 2010, the
6 maximum amount of the Amy Young assistance has never
7 exceeded \$20,000. The Department has assisted nearly
8 1,100 households through the Amy Young program to date.
9 About 75 percent of those beneficiaries earn less than 50
10 percent of the area median income, and we're excited to be
11 able to provide more assistance per household.

12 The current 2020-2021 biennium plan contains
13 the description of the Amy Young program with the outdated
14 \$20,000 assistance amount. Our proposed amendment to the
15 plan today is to reflect the new higher assistance amount
16 of \$22,500.

17 With that, I'm happy to answer any questions.

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

20 MR. BRADEN: Move to approve.

21 MR. GOODWIN: Second?

22 MR. VASQUEZ: Second.

23 MR. GOODWIN: Any other questions?

24 (No response.)

25 MR. GOODWIN: If not, all those in favor, say

1 aye.

2 (A chorus of ayes.)

3 MR. GOODWIN: Opposed?

4 (No response.)

5 MR. GOODWIN: Thank you, sir.

6 Okay. Gavin. Community Affairs.

7 MR. REID: Good morning, Mr. Chairman, Board
8 Members. I'm Gavin Reid, Manager of Planning and Training
9 in the Community Affairs Division.

10 Item 5(a) requests approval to award Galveston
11 County Community Action Council -- and I'll refer to them
12 here on out as Galveston -- a 2020 Community Energy
13 Assistance Program Award, or CEAP Award.

14 In July, the Board approved the 2020 Low Income
15 Home Energy Assistance Program state plan that contained
16 within it a list of the entities to be awarded funds and
17 the proposed award amounts.

18 Due to unresolved and recurring monitoring
19 findings, the Department did not include a 2020 CEAP Award
20 for Galveston within that plan and deferred the decision
21 to award to a subsequent Board meeting. Since that Board
22 meeting, the Department worked with Galveston to
23 satisfactorily resolve the findings.

24 After a review of Galveston's previous
25 monitoring findings, the Executive Award Review and

1 Advisory Committee recommended to award Galveston its 2020
2 CEAP funding in the amount of approximately \$3.3 million.

3 If approved by the Board, the Department will
4 issue a 2020 CEAP contract to Galveston to continue
5 utility assistance services beginning January 1, 2020.

6 Thank you. I'm available for any questions you
7 might have.

8 MR. GOODWIN: Gavin, if I remember correctly,
9 wasn't there a county - one of these four counties that
10 wanted part of that to administer this program?

11 MR. REID: Yes. There was --

12 MR. GOODWIN: Which county was it?

13 MR. REID: It was Fort Bend County.

14 MR. GOODWIN: Fort Bend County?

15 MR. REID: Yes. They wanted to provide
16 services for Fort Bend County. Yes.

17 MR. GOODWIN: Okay. But that is a part of this
18 Galveston --

19 MR. REID: Service area. Yes.

20 MR. GOODWIN: -- service area. And we have a
21 contract with Galveston, and they have complied now with
22 all of the issues --

23 MR. REID: Right.

24 MR. GOODWIN: -- that made us delay the last
25 time?

1 MR. REID: They satisfied the condition and so
2 that, yes, we're awarding without condition. However,
3 staff does realize they still need our assistance to
4 succeed. So we'll be training staff, we'll be continuing
5 to provide training as we have been, training and
6 technical assistance upon request and any on-the-spot
7 trainings that we feel that are necessary.

8 MR. GOODWIN: So what would the procedure be if
9 Fort Bend County and Galveston County got together and
10 Fort Bend said, we're closer to our residents and we would
11 like to administer just the Fort Bend County part of this.
12 Would they have then reapply? And would Galveston have to
13 willingly give up Fort Bend County?

14 MR. REID: There's actually probably two
15 methods on the top of my mind right now that come to mind.
16 Galveston would have to voluntarily relinquish the funds,
17 and then the Department would have to go through a process
18 to determine if Fort Bend County is qualified or has the
19 capacity to provide utility assistance services for Fort
20 Bend -- for that population in Fort Bend.

21 That's one way, so voluntary relinquishment.
22 The other way would be kind of to continue down the road
23 which we have gone down the past year, where monitoring
24 continues to come up with findings and then we go through
25 a quality improvement plan process and then to see if, you

1 know, they can resolve that, get through that quality
2 improvement plan process.

3 So those are two methods that I guess -- and
4 then we'd have to go out with a request for applications.

5 Again, you know, if Galveston did not succeed and then we
6 determine -- then, you know, if Fort Bend scored well
7 enough to earn that award.

8 MR. GOODWIN: Might be just as easy as
9 segregating that one county out and --

10 MR. REID: Right.

11 MR. GOODWIN: -- and getting Fort Bend to then
12 administer the funds for their area.

13 MR. REID: Right. There would be an application
14 process and a scoring process, and we'd have to open it
15 up.

16 MR. GOODWIN: And then Fort Bend County might
17 have some other applicants who wanted to administer

18 MR. REID: That's true.

19 MR. GOODWIN: -- that program.

20 MR. REID: Yes. That's correct.

21 MR. GOODWIN: Okay. Any other questions for
22 Gavin?

23 MR. VASQUEZ: Some questions. First, following
24 up on Chairman Goodwin, is there a way that Fort Bend
25 could sign an MOU with the Galveston organization to sort

1 of subcontract out that section? It's still under the
2 auspices of the Galveston awardee group, but --

3 MR. REID: To my mind, I'm not coming up with
4 anything, but I can refer to Brooke maybe.

5 MS. BOSTON: Thank you. Brooke Boston. I
6 think that they could. We need to talk that through with
7 counsel to make sure that was doable. But, yeah, I
8 don't -- I know we have other subrecipients in the agency
9 who do outsource and subcontract portions of their work to
10 other entities, so I would just need to check and make
11 sure that's okay first, specifically.

12 MR. VASQUEZ: Okay. And I guess back to
13 Gavin -- given that we've had so much history of problems
14 with this Galveston organization --

15 MR. REID: Right.

16 MR. VASQUEZ: -- you specified there's no
17 conditions on this award. However, what kind of
18 reassurances does the Department have that they do have
19 their act together now? And rather than waiting for them
20 to ask for assistance, do they understand they're on a
21 short leash and we expect much more real-time reporting?

22 MR. REID: Yes. So I talked about the training
23 side of the Department. I will continue to offer training
24 and technical assistance upon request and whenever needed
25 as concerns come up. But additionally, the monitoring

1 side is aware of this, of course, because they were
2 heavily involved in it the last year.

3 But they will more heavily or more frequently
4 monitor expenditures and performance of Galveston in the
5 near term, you know, such as requesting client files to
6 check for all the issues maybe they've had in the past and
7 financial records, support documentations, such things as
8 that.

9 Also, the Department monitoring division will
10 also conduct a review in the first quarter of this
11 contract. So we will be monitoring them more frequently,
12 in addition to the training assistance. We realize that
13 they are on a short leash and we need to continue to
14 monitor them.

15 MR. VASQUEZ: And remind me. Do we send them a
16 \$3,368,000 check and say, go with it? Or do we only
17 release funds as they apply for it as we go?

18 MR. REID: We issue the contract on January 1
19 for \$3.1 million or \$3.3 million, and then they do go as
20 they go, but -- or spend it as they go. But, you know,
21 again, if we --

22 MR. VASQUEZ: If at the end of February we see
23 that they haven't done any reports and they have
24 distributed the money --

25 MR. REID: Right.

1 MR. VASQUEZ: -- other than \$100,000 --

2 MR. REID: Right.

3 MR. VASQUEZ: -- we still have control --

4 MR. REID: Yes.

5 MR. VASQUEZ: -- of the balance of the 3.3
6 million?

7 MR. REID: Yes. You'd probably see one of us
8 coming back to the Board for some sort of action on that.
9 Yes.

10 MR. VASQUEZ: Are you confident that we made it
11 perfectly clear to the Galveston organization that they
12 have to ensure that funds are distributed amongst the
13 whole four-county region?

14 MR. REID: Yes. They know that. But with you
15 asking the question, we will ensure that -- or make sure
16 of that.

17 MR. WILKINSON: This is extra clarity right now
18 we're going to communicate that.

19 MR. VASQUEZ: I just want to make sure that,
20 again, it is clear that they are on a very short leash and
21 that --

22 MR. REID: Okay.

23 MR. VASQUEZ: -- staff is proactively
24 monitoring them and Galveston's proactively sending --

25 MR. REID: Right.

1 MR. VASQUEZ: -- you the information.

2 MR. REID: We'll get together, and we'll make
3 that abundantly clear.

4 MR. VASQUEZ: Great. Thank you.

5 MR. REID: Thank you.

6 MR. GOODWIN: Any other questions? If not, do
7 I hear a motion to accept staff's recommendation?

8 MR. VASQUEZ: I move to accept staff's
9 recommendation.

10 MR. GOODWIN: Second?

11 MR. BRADEN: Second.

12 MR. GOODWIN: Okay. Any other questions?

13 (No response.)

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

15 (A chorus of ayes.)

16 MR. GOODWIN: Opposed?

17 (No response.)

18 MR. GOODWIN: Okay. 4(b) -- I mean 5(b).

19 Sorry.

20 MR. REID: Item 5(b), request authority from
21 the Board to apply for community services block grant CSBG
22 disaster relief supplemental funds.

23 In late November, just in the last month, the
24 Department of U.S. Health and Human Services announced the
25 availability of CSBG disaster relief supplemental funds

1 for two specific disasters in 2019.

2 The Department is eligible to apply for up to
3 \$1.9 million in these funds. The funding is scheduled to
4 be released by United States Department of Health and
5 Human Services in three stages.

6 Stage 1 is the initial planning and needs
7 assessment stage for up to \$100,000, which is what we're
8 applying for now. Stage 2 is the interim recovery stage
9 for up to approximately \$1 million. Stage 3 is the longer
10 term recovery stage for up to \$774,000. These amounts are
11 only preliminary and could change.

12 The three-stage process allows for funds to be
13 expended by only qualified eligible entities on low-income
14 households at 125 percent or below of the federal poverty
15 income guidelines who have disaster-related needs.

16 So only these disaster funds aren't being just
17 released to the population at large, just a small segment
18 of the population that have disaster-related needs and are
19 low-income.

20 If approved by the Board to apply for the
21 disaster funds and successful in its application, the
22 Department will distribute funds to only qualified
23 eligible entities based on need, interest, and capacity.

24 If need, interest, and capacity is demonstrated
25 by any of the qualifying entities, the funding will be

1 pursued. However, if not, the Department may choose to
2 not pursue the funds. Either way, an application must be
3 submitted by the Department. Staff requests Board
4 approval to do so.

5 Thank you. And I'm available for any questions
6 you might have.

7 MR. GOODWIN: Any questions?

8 MR. BRADEN: I've got a couple.

9 MR. GOODWIN: Okay.

10 MR. BRADEN: So we make this application for
11 this amount, which is a good thing, obviously, and then we
12 wait for other agencies or people to come and make
13 application to us before we determine that we're going to
14 take additional amounts?

15 MR. REID: They're working in conjunction as we
16 speak. Because it's on such a short time frame, we're
17 seeking approval to apply for it, but we're also talking
18 with the eligible entities -- the qualified ones, of which
19 there's only six of them -- to talk with them and say,
20 Hey, these -- because they weren't aware of it, either,
21 until just recently -- Hey, we've got some funds
22 available. Do you have a need? Do you have interest in
23 these funds? So we're talking with them.

24 And the Department of Health and Human
25 Services, they don't expect all the answers right now, as

1 we've already been talking to them. But this first stage
2 is just to kind of get awareness of what's out there and
3 start coming up with a plan to get the larger amounts of
4 money later. So it's all in the planning phases right now
5 and what are the needs out there, and that's kind of where
6 we're at now.

7 MR. BRADEN: Okay. That's all I have.

8 MR. VASQUEZ: I have a more sort of general
9 question, probably for our counsel. Are we able to just
10 set an authorization from the Board for the executive
11 director to, of course, apply for funds that are out there
12 that fall under our umbrella, rather than waiting for the
13 next Board meeting get some sort of approval?

14 I mean, this, again, sounds like it's
15 bureaucratic ridiculousness asking us, gee, do we want
16 Texas to have a \$1.9 million grant?

17 MR. ECCLES: It's actually more of a policy
18 question than a legal one. Yes, you could give the
19 authority to just apply for things. However --

20 MR. VASQUEZ: That fall under our jurisdiction
21 and make sense.

22 MR. ECCLES: Right. I don't believe -- and,
23 Gavin, you can clarify -- that any delay has occurred as a
24 result of bringing this to the Board. It's more of a
25 giving the Board the opportunity to understand programs

1 that staff is applying for so that these questions can be
2 asked.

3 And perhaps it's a direction -- you say of
4 course we would want to apply for, but maybe the Board
5 wouldn't want to apply for certain grants that staff might
6 go out and get otherwise.

7 The answer to your question is, yes, you could
8 give that authority. I would suggest that be at a
9 different Board meeting that it be considered, that it
10 have some guide ropes around it. But that's the reason
11 it's being brought forward this way.

12 MR. WILKINSON: We discussed this exact issue,
13 and I guess the deal was we wouldn't want to just hang a
14 bunch of new regs around your neck without your
15 permission, was the thought.

16 But if we have a discussion about it at more
17 general authority to go for funds, I admit that's a better
18 direction.

19 MR. VASQUEZ: Or maybe you all can think about
20 how to structure that when given certain parameters that
21 delegate authority for you.

22 MR. BRADEN: And obviously some federal money
23 comes with strings, so I'm not sure. It's something we
24 can discuss.

25 MR. VASQUEZ: It doesn't take matching funds

1 from us that we have to come up with.

2 MR. BRADEN: Right.

3 MR. WILKINSON: Maybe an up-to amount, or we
4 can figure something out.

5 MR. REID: I'll add -- just going back to your
6 question, Mr. Vasquez, is that, yeah, there is no delay by
7 us coming to the Board for that. We're actually kind of
8 working it all at the same time. So by coming to the
9 Board we didn't -- this particular item had no delay.

10 MR. VASQUEZ: Okay.

11 MR. GOODWIN: Any other questions? If not, do
12 I hear a motion to approve staff's recommendation for Item
13 4(b) --

14 MS. THOMASON: So moved.

15 MR. GOODWIN: -- 5(b). Sorry.

16 MS. THOMASON: So moved.

17 MR. GOODWIN: Moved. Second?

18 MR. VASQUEZ: Second.

19 MR. GOODWIN: Moved and seconded. Any further
20 questions or discussion?

21 (No response.)

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

23 (A chorus of ayes.)

24 MR. GOODWIN: Opposed?

25 (No response.)

1 MR. GOODWIN: Okay. Moving on to Bond Finance,
2 Item 6(a).

3 MR. TOMME: Good morning, Board. My name is
4 John Tomme, and I'm here representing the Bond Finance
5 Division. This item is requesting approval for MCC
6 Program 94.

7 MCC Program 94 will make 400 million in volume
8 cap available for MCC issuances by the Department across
9 the state. Program 94 MCCs can be issued through December
10 31, 2022, but staff expects this program to be fully
11 committed by the end of 2020 except for 80 million of set-
12 aside for targeted areas.

13 This set-aside is expected to be fully
14 committed by mid 2021. The Department offers two MCC
15 options: stand-alone MCCs and combo loans that provide
16 borrowers with an MCC and a loan made through our taxable
17 mortgage program.

18 Staff actively manages private activity volume
19 cap to maximize its effectiveness, balancing the
20 allocation between single-family mortgage revenue bonds
21 and MCCs depending on market conditions and other factors.

22 As of February 1, 2019, staff made the decision
23 to suspend the stand-alone MCC option. Fortunately, at
24 the August 2019 volume collapse, the Department received
25 enough volume cap for staff to believe it was appropriate

1 to reopen reservations for stand-alone option in mid-
2 September.

3 Staff expects that Program 94 will begin
4 issuing MCCs in late January 2020. At this time, I'd be
5 happy to answer any of your questions.

6 MR. BRADEN: I think you answered my one
7 question. So we already have volume cap for this MCC
8 program?

9 MR. TOMME: Yes, sir.

10 MR. BRADEN: Okay.

11 MR. GOODWIN: Any other questions? If not, do
12 I hear a motion to accept staff's recommendation?

13 MR. BRADEN: Move to accept staff
14 recommendation and approve.

15 MR. GOODWIN: Second?

16 MS. THOMASON: Second.

17 MR. GOODWIN: Any other questions?

18 (No response.)

19 MR. GOODWIN: If not, all in favor, say aye.

20 (A chorus of ayes.)

21 MR. GOODWIN: Opposed?

22 (No response.)

23 MR. GOODWIN: Okay. Thank you. Item 7,
24 Multifamily Finance. Tell me there's going to be some
25 fireworks, man. It's been too easy.

1 MS. MORALES: Teresa Morales, Director of
2 Multifamily Bonds. Chairman Goodwin and Members of the
3 Board, Item 7(a) involves the award of approximately \$7.4
4 million in 4 percent housing tax credits associated with
5 five multifamily developments totaling 1,000 units.

6 Specific information relating to each of these
7 developments is included in your Board package. With this
8 agenda item, I wanted to give a shameless plug on what the
9 4 percent program has accomplished this past year.

10 As 2019 is coming to an end, we are working our
11 way through the rest of the 4 percent applications that
12 have been submitted that have 2019 bond reservations. The
13 application log included with the item in your package
14 reflects 8,600 affordable units that have been approved to
15 date and many that have closed.

16 There will be another batch of applications
17 that will be brought before you in January that will
18 hopefully close out the 2019 activity with another 2,500
19 affordable units.

20 The bottom line is that in 2019 staff has
21 processed, reviewed, underwrote, and performed previous
22 participation reviews on over 80 applications that has
23 yielded approximately 11,100 affordable units.

24 Staff recommends approval for this item that
25 would allow determination notices associated with these

1 five applications to be issued in the respective amounts
2 as noted in your package.

3 MR. GOODWIN: Any questions?

4 MR. VASQUEZ: Has the Department taken any
5 steps to publicize these great results and figures?

6 MS. MORALES: I'm doing it now. I've done it
7 every month.

8 MR. VASQUEZ: If only we had someone in charge
9 of communications that could do that.

10 (General laughter.)

11 MS. MORALES: What's a girl got to do to get
12 help around here?

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

15 MR. VASQUEZ: Move to approve staff's
16 recommendations.

17 MR. GOODWIN: Second?

18 MR. BRADEN: Second.

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

20 (A chorus of ayes.)

21 MR. GOODWIN: Opposed?

22 (No response.)

23 MR. GOODWIN: Okay. I think -- Thank you,
24 Teresa. Are you doing 7(c)?

25 MS. MORALES: Yes.

1 MR. GOODWIN: Okay.

2 MS. MORALES: Item 7(c) involves the award of
3 approximately \$1.3 million in 4 percent housing tax
4 credits and \$4 million in TCAP repayment funds.

5 The Walzem proposes the new construction of 200
6 units in the San Antonio ETJ that will serve the general
7 population. The board write-up reflects that 18
8 opposition letters from individuals were received. Some
9 of the reasons for the opposition include a decrease in
10 property values, increase in crime and traffic congestion.

11 A number of individuals from the Woodlake
12 Estate subdivision signed a letter that expressed
13 opposition, citing all of the aforementioned factors, but
14 added that retail merchants, including movie theaters and
15 larger food stores would be in a better interest of the
16 area and a better use of the specific land.

17 After Board posting, there were an additional
18 five letters of opposition that were received. One of
19 which was from Bexar county commissioner Tommy Calvert,
20 which I believe the Board Chair is allowing to be read
21 into the record.

22 MR. GOODWIN: Yes, ma'am.

23 Mike, will you read it into the record for us,
24 please.

25 MR. LYTTLE: I asked the Communications

1 Director to read it, but he's not here. So I will read
2 the letter as follows. It is addressed to the Board.

3 "Dear Ms. Cline" -- well, it's addressed to
4 TDHCA staff.

5 "I'm writing today to express my opposition to
6 TDHCA application 1946A, a development by Cohen-Esrey in
7 spite of the previous resolution of no objection passed by
8 the Bexar County Commissioner's Court on May 21, 2019.

9 "There are some recent facts that we learned
10 after the passage of the resolution that I need to bring
11 to TDHCA's attention.

12 "Specifically, I provide representatives of
13 Cohen-Esrey with 11 neighborhood associations near the
14 Walzem development, and express that if those
15 organizations gave their support, then I would provide the
16 resolution.

17 "Unfortunately, Cohen-Esrey representatives
18 chose to meet with only two of the 11 and then told my
19 office that they had met with the associations. However,
20 this was not true. I relied on their correspondence that
21 they had met with the 11 organizations and passed the
22 resolution on May 21, 2019.

23 "When I found out in October that this had not
24 happened, I had to change my protocols within my office to
25 verify that developers were accurate in their

1 correspondence with my constituents.

2 "Although Cohen-Esrey representatives have
3 recently began engaging with the organizations they were
4 originally supposed to contact and things were going well
5 in comparison to others, there are growing concerns from
6 the residents regarding fire safety, traffic, density,
7 management, economic development, and more issues that are
8 unsatisfactorily legging the project.

9 "Hence, I can no longer support this project
10 moving forward until issues with the residents are
11 addressed. I am a supporter of affordable housing, but I
12 respect even more the right of communities to shape their
13 future and be governed in partnership with state
14 leadership while not in conflict with their local
15 government.

16 "If you have any questions or would like to
17 discuss this further, please call my office. Always your
18 voice, Tommy Calvert, Bexar County Commissioner, Precinct
19 4."

20 MR. GOODWIN: And we received that letter when?
21 Recently?

22 MS. MORALES: Earlier this week.

23 MR. GOODWIN: Earlier this week.

24 MS. MORALES: After the Board posted this week.

25 MR. GOODWIN: After the Board posted. Okay.

1 MR. MORALES: Staff recommends approval of a
2 determination notice of \$1,326,147 in 4 percent housing
3 tax credits and an award of direct loan funds in the
4 amount of \$4 million.

5 MR. GOODWIN: Okay. Any questions for Teresa?

6 MR. BRADEN: Yes. So we haven't received
7 anything officially from Bexar County Commissioner's Court
8 retracting its prior action or anything like that?

9 MS. MORALES: No.

10 MR. BRADEN: And I know just from that letter,
11 that apparently the original resolution was passed in May
12 of 2019. The Commissioner indicated he came noticed that
13 whatever he told him, it wasn't adhered to in October
14 2019. Obviously there were many meetings of the
15 Commissioner's Court between October and now where
16 presumably Commissioner's Court could have taken action to
17 retract that. So I have no objections.

18 MR. GOODWIN: Okay. Any other questions? If
19 not, do I hear a motion to accept staff recommendation?

20 MR. BRADEN: So moved.

21 MR. GOODWIN: Second?

22 MS. THOMASON: Second.

23 MR. GOODWIN: Any other questions?

24 (No response.)

25 MR. GOODWIN: If not, all those in favor, say

1 aye.

2 (A chorus of ayes.)

3 MR. GOODWIN: Opposed?

4 (No response.)

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

6 Item 7(d). Marni?

7 MS. HOLLOWAY: Good morning, Chairman Goodwin,
8 Members of the Board. I'm Marni Holloway; I'm the
9 director of the Multifamily Finance Division.

10 Item 7(d) is Presentation, Discussion, and
11 Possible Action on a Request for Return and Reallocation
12 of Tax Credits under 10 TAC 11.65 Related to Credit
13 Returns Resulting from Force Majeure Events.

14 There are actually four separate developments
15 that we're going to be discussing this morning. The first
16 one, Abbington Ranch, received an award of \$500,000 and 9
17 percent credits in 2017. The carryover allocation
18 agreement requires that the development be placed in
19 service by December 31 of 2019.

20 On October 31 of this year we received a
21 request to extend the placed-in service deadline due to
22 force majeure events. The applicant's request described
23 significant and unusual rainfall, including 75 days of
24 rain delays, 60 of which were during the initial site work
25 phases. The contractor's log and construction status

1 reports support this claim.

2 The request also describes changes in laws,
3 rules, or regulations in that the City of Boerne approvals
4 process required completion of off-site work prior to
5 beginning construction, and required changes to approved
6 plans before beginning their off-site work. So they were
7 really backed up in their process. This added
8 approximately 120 days to the schedule.

9 In addition, the new sanitary lines installed
10 by the city public works were shallower than designed,
11 causing additional conflicts with the connection in delays
12 in installation of the project's on-site service.

13 The request claims that these actions by the
14 city effectively resulted in changes to the rules and
15 regulations for which the project was originally designed.

16 Because the events described in the request
17 meet the requirements for force majeure treatment under
18 the rule, staff recommends that the request for treatment
19 of Abbington Ranch under an application of the force
20 majeure rule be approved so that the 2017 QAP and uniform
21 rules and the 2019 program calendar will be applicable to
22 the development, and that the new placed-in service
23 deadline will be March 2, 2020.

24 MR. GOODWIN: Okay. Any questions? Do I hear
25 a motion to accept staff's recommendation?

1 MR. BRADEN: So moved.

2 MR. GOODWIN: Second?

3 MS. THOMASON: Second.

4 MR. GOODWIN: Any other questions?

5 (No response.)

6 MR. GOODWIN: All in favor, say aye.

7 (A chorus of ayes.)

8 MR. GOODWIN: Opposed?

9 (No response.)

10 MR. GOODWIN: Okay.

11 MS. HOLLOWAY: The next application we're
12 taking up under this Item is number 17736. This is
13 Providence at Ted Trout Drive. This development received
14 an award of 9 percent credits in the amount of \$897,357 in
15 2017. The placed-in-service deadline is December 31 of
16 2019.

17 On September 5, we received a request to extend
18 the placed-in-service deadline under the force majeure
19 rule. The request named an extended deadline of December
20 31, 2022, which would not be available. The latest
21 possible extension would be to December 31, 2020.

22 In the request, the development owner states
23 that sudden and unforeseen circumstances due to the
24 aftermath of presidentially-declared disaster Hurricane
25 Harvey resulted in significant cost increase of materials,

1 labor and the decreased availability of contractors, which
2 have significantly affected the feasibility of the
3 development, necessitating changes to the financing
4 structure and requiring them to pursue measures to further
5 reduce the gap in financing, including architectural
6 changes.

7 Per the request, the development was feasible
8 at the time of award. However, the availability and cost
9 of both materials and labor were directly impacted by the
10 immense scope of devastation in the aftermath of the
11 storm, resulting in construction cost increases of
12 approximately 15 to 20 percent.

13 The request indicates that the development
14 owner considered or took a number of actions to reduce
15 construction costs and describes an attempt to secure
16 221(d)(4) financing in order to close the gap, saying they
17 were not able to secure it due to the time frame.

18 It is important to note that the application,
19 as originally presented, included (d)(4) financing, so
20 that this was not a new effort in response to the storm.

21 The first construction status report was due on
22 October 10 of 2018. Each quarter until April of 2019, the
23 development owner informed staff that the loan had not
24 closed and nothing could be submitted.

25 The loan was closed on April 15 of 2019, almost

1 21 months after the award. The submitted construction and
2 bridge loan agreement indicates a completion date of
3 December 15, 2019. The development owner provided
4 evidence that the lender has agreed to an extended
5 completion date as part of the force majeure request.

6 Staff has determined that the development owner
7 has not provided sufficient evidence that the development
8 has been affected by sudden and unforeseen circumstances
9 outside the control of the development owner as described
10 in the rule, particularly material and labor shortages
11 caused by Hurricane Harvey that did not cause similar
12 delays for other developments. Providence at Ted Trout is
13 in Angelina County, which did not receive a federal
14 disaster declaration for Hurricane Harvey.

15 The request includes statements from several
16 articles written in the immediate aftermath of the
17 hurricane describing how the labor shortages and the
18 material costs were exacerbated after the storm.

19 However, the request did not explain how the
20 development owner's failure to close financing until
21 nearly two years after the credits were awarded was a
22 direct result of materials and labor shortages caused by
23 Hurricane Harvey.

24 If the Board denies the request, the owner will
25 have an opportunity the place the development in service

1 for which just a temporary CO qualifies before December
2 31. If the development owner returns the credits, they
3 would be applied to our next 2020 9 percent round. Due to
4 the late date, we don't have time to get them out to
5 another application for this year.

6 If the Board grants the request, the
7 development owner would return their \$897,357 in credits
8 and would be reissued a new carryover allocation agreement
9 for 2019, and the date for the development to be placed in
10 service will be as determined by the Board, because the
11 date that was requested is not -- we can't do with the
12 2017 qualified allocation plan and uniform multifamily
13 rules applicable to the development.

14 The events described in the request do not meet
15 the requirements for force majeure under the rule.
16 Therefore, staff recommends that the request for treatment
17 of Providence at Ted Trout Drive under an application of
18 the force majeure rule be denied.

19 I'd be happy to answer any questions.

20 MR. GOODWIN: Questions?

21 MR. VASQUEZ: I'm sorry, Marni. Could you
22 repeat what happens if we deny it?

23 MS. HOLLOWAY: If you deny the request, the
24 owner still has an opportunity to get to placed-in-service
25 by December 31 if they are able to gain temporary CO --

1 either complete COs or temporary COs on their buildings by
2 December 31 of 2019.

3 MR. VASQUEZ: How close are they to making that
4 happen?

5 MS. HOLLOWAY: I would suggest that they -- I'm
6 sure there are a bunch of people back here who can answer
7 that.

8 MR. VASQUEZ: Then in the next step you said
9 something about turning back in the credits and then
10 getting reissued?

11 MS. HOLLOWAY: If the Board determines that the
12 applicant has met the requirements under the force majeure
13 rule and decides to provide that relief, what we would
14 do -- they would effectively return the credits to us. We
15 would reissue a 2019 carryover allocation agreement, which
16 would actually have a December 31, 2021, placed-in-service
17 deadline.

18 The Board has the option to set a shorter
19 deadline, if you feel that's appropriate.

20 MR. GOODWIN: Other questions? No other
21 questions? Do I hear a motion to hear comments? Do we
22 have people who want to speak?

23 MR. BRADEN: So moved.

24 MR. GOODWIN: Second?

25 MS. THOMASON: Second.

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

2 (A chorus of ayes.)

3 MR. AKBARI: I'm Chris Akbari. I'm the
4 president and CEO of ITEX. We're the developer for this
5 project. We did get a late start on this project.
6 Without a doubt we did, but we went through several
7 difficulties that got us there.

8 Number one, Hurricane Harvey sent the
9 construction costs up substantially. Over 25 percent they
10 were increased. In addition to that, we also had an
11 equity partner signed out. We had Hudson Housing that was
12 signed up with us, and when they saw the significant cost
13 increases, they said, Go out and try to find a solution.

14 We worked for several months, and yes, it did
15 take 21 months for us to figure it out. But that included
16 replacing the equity partner, getting a new lender,
17 starting construction before we actually closed on a new
18 equity partner, our company bridging the gap by putting in
19 an additional \$300,000 cash. I

20 And it really was a very difficult project for
21 us to get started, but that's just one thing. What has
22 happened since we closed is even more disastrous. We've
23 had significant rain delays through the construction
24 project.

25 In fact, our contractor, who's here today,

1 he'll explain to you that we had a schedule that had us to
2 deliver the buildings on time, and we never intended to
3 make a request to you guys.

4 What happened is that we had 90 inches of rain
5 since construction started. We had Tropical Storm Imelda
6 affect this county. We also have had 65 rain days that
7 have affected this project. So what we did, we went and
8 met with the contractor and we said, we have to get this
9 done. We'll commit another \$300,000 for you to go out and
10 get more workforce and push this with 24/7 work. And
11 actually since October 1, they have continued the
12 progress.

13 Now, what we're asking for is to allow for
14 these units that are almost done -- only 15 percent left
15 to be completed. There's 76 of them. 100 percent of them
16 are for the benefit of seniors in Angelina County that are
17 low-income and they need better housing.

18 We're asking for the Board to approve our
19 request and help the seniors and help this project get
20 across the finish line. Thank you.

21 MR. GOODWIN: Any questions?

22 MR. VASQUEZ: So if we approve this, when is
23 the project going to be complete and put in service?

24 MR. AKBARI: Our contractor says that he can
25 finish by the second week of February. I think it would

1 be reasonable to give us until March 31, and we should be
2 able to get it done by then.

3 As I said, we're 85 percent complete today.
4 That would give us a buffer for any additional rain days.

5 MR. VASQUEZ: So by end of Q1 2020?

6 MR. AKBARI: Yes, sir.

7 MR. GOODWIN: Marni, I have a question. Does
8 the application quote the rain days that this gentleman
9 just referred to.

10 MS. HOLLOWAY: So the original request that was
11 received by us back in September 5 did not discuss rain
12 delays, but a number of those delays may have happened
13 after that request was received.

14 MR. GOODWIN: It's doubtful that 90 inches
15 happened between that date and today --

16 MS. HOLLOWAY: I don't know.

17 MR. GOODWIN: Maybe a good portion of it did.

18 MS. HOLLOWAY: I can't speak to that.

19 MR. GOODWIN: Okay. We had a number of other
20 projects that were approved at the same time. Has anyone
21 stated that they've had a 25 percent cost increase for
22 materials? That seems -- at least, my experience -- we
23 expected that when Harvey hit, but quite frankly, I didn't
24 see it happen.

25 MS. HOLLOWAY: There have been a small handful

1 that we know of who have experienced cost increases
2 through applications that have come in for additional
3 direct loan funds. Twenty-five percent sounds like more
4 than what we've seen from these other applications. There
5 have been some, but we haven't heard from every
6 application in the region that they had these issues.

7 MR. GOODWIN: When somebody comes in with that
8 request, do you send it back to real estate analysis to
9 verify their cost increases?

10 MS. HOLLOWAY: Yes.

11 MR. GOODWIN: Brent, could you address that
12 question?

13 MR. STEWART: Yes. Hi. Brent Stewart, Real
14 Estate Analysis.

15 We've seen costs all over the map in Houston.
16 And some of them, the cost increases that we've
17 underwritten have related to actual changes to the
18 development because of cost increases where they've had to
19 go in and kind of reshape their development plan to reduce
20 costs.

21 We hear information on projects that costs have
22 gone up; we hear others that haven't. They're generally
23 the same type of projects, so you would expect those to
24 both be moving in the same direction. We try to
25 underwrite those transactions with signed-up construction

1 contracts, you know, firm-dead deals. It's hard to argue
2 those.

3 We know there's some developments in Austin
4 that are causing kind of a vacuum of stuff in Houston in
5 addition to the hurricane stuff. We have a developer who
6 did a transaction in Bastrop that found it was cheaper to
7 pull people out of Houston than it was Austin, so there's
8 a sucking sound of subcontractors kind of in Houston.

9 Our research on commodities don't show there's
10 been a huge increase in Houston with commodities.

11 MR. GOODWIN: And has your department reviewed
12 this project and --

13 MR. STEWART: No, sir, it has not. I
14 understand there's an amendment request in at the same
15 time, and we are underwriting that, but we're not complete
16 with that.

17 MR. GOODWIN: Okay. Any other questions?

18 (No response.)

19 MR. GOODWIN: Thank you, Brent.

20 Next speaker?

21 MR. EWING: Good morning, Chairman Goodwin,
22 Board. My name is Bill Ewing, Jr. I'm with the general
23 contractor on this project. Our scheduled start date on
24 this project was April 9, 2019, and our scheduled
25 completion was November 30. We had a total of 236 days.

1 Our planned work schedule and staffing plan as
2 we started this project was an accelerated schedule. We
3 planned to have an on-site staff of five dedicated team
4 members on site working six days a week and 10 hours a
5 day, and we did have that.

6 To overcome these delays we have adjusted that
7 schedule three times to finally include we have an onsite
8 staff of nine; we've been working seven days a week, 12
9 hours a day, and a night shift as well.

10 There were a significant amount of delays on
11 this project, and we have those in three categories:
12 Weather, existing utility relocation, and building
13 inspections.

14 First, for the weather delays, NOAA, the
15 National Oceanic and Atmospheric Administration, allows
16 for normal rain and weather delays in Hudson, Texas,
17 Angelina County, and during the time of this project,
18 during our time period, we totaled 68 weather delays
19 associated with the 90-plus inches of rain above what was
20 normal is 34 days, and those 34 days are days we could not
21 have anticipated. That's over a month out of our almost
22 eight-month construction schedule.

23 Also, there was existing utilities that had to
24 be relocated on this project. There was a city water main
25 that went through two of our buildings that was not

1 located properly by the city engineer or the city as-build
2 drawings. That water line had to be relocated back into
3 the city easement, and that was a delay of 65 days before
4 we could start two buildings on the project.

5 Second, there was a bank of utilities that
6 serviced the neighboring properties. There was an
7 existing transformer that had power service. There was a
8 power pole that had internet and cable TV service, and
9 there was a gas meter.

10 Those had to be rerouted by three separate
11 utility providers and an easement to the neighbors to keep
12 the utilities in service before we could remove those, and
13 that took 111 days to get the outside utility providers to
14 remove those. Those affected five building pads on the
15 project before we could start five pads.

16 The last was city inspection services, and
17 that's somewhat due to the weather in one aspect. Our
18 building inspector that was assigned to this project by
19 the city is Mr. Curtis Dunne. He's a very diligent and
20 competent inspector; however, he requires the use of a
21 walker to access the site to do his inspections.

22 He inspects the electrical, the plumbing and
23 the structural, and after --

24 (Buzzer sounds.)

25 MR. GOODWIN: Three minutes. That just tells

1 you your time's up. But go ahead and wrap up, if you
2 would.

3 MR. EWING: Yes, sir. He's very diligent. But
4 six different times he had to wait sometimes two, three,
5 four, and six days to make inspections just because of the
6 muddy conditions on site. He could not get on site. That
7 was a total of 15 days.

8 The fire marshal -- there's only one licensed
9 inspector for fire marshal in the city of Hudson. He's
10 also the police chief. His mother passed away, and he was
11 off site and would not answer phone calls for 30 days. He
12 has to approve the fire sprinkler system before we can
13 install sheetrock and cover up the ceilings, and he was
14 gone for 30 days. That affected 14 buildings and that was
15 a total of 30 days.

16 But just in summary, we're 86 percent complete
17 as of yesterday. And I've been doing this 35 years.
18 Without these delays, I know we could have finished this
19 project on time.

20 MR. GOODWIN: Any questions? Paul?

21 MR. BRADEN: So when you talk about the weather
22 delays, did you say there were 34 days above what is
23 considered normal, according to NOAA?

24 MR. EWING: Yes, sir. That's all we were
25 claiming in our delays with the owner. There were 66

1 total days that we were affected by either rain or wet
2 conditions where we could not work on the project.

3 MR. BRADEN: And when did Tropical Storm Imelda
4 hit? I mean, is that because of that?

5 MR. EWING: No, sir. We had rain from the very
6 beginning of the project. When we mobilized, we had two
7 weeks of rain. Imelda was September, I believe, early
8 September. So these are rain days going back to when we
9 mobilized on the project, not just at the end.

10 MR. BRADEN: Okay.

11 MR. GOODWIN: Any other questions?

12 (No response.)

13 MR. GOODWIN: Next speaker?

14 MR. VASQUEZ: Mr. Chairman, could I ask a
15 question? Are there going to be any speakers who are
16 going to be against us -- would be against us approving
17 this? Is everyone going to say the same thing? Please
18 let us extend. I assume that's --

19 MR. GOODWIN: Is there anybody that favors
20 staff recommendation to deny?

21 (No response.)

22 MR. GOODWIN: Nobody? Okay.

23 MR. VASQUEZ: Then I guess I have a question
24 that I don't know who -- I don't know if it's Marni or
25 Beau. So if we allow the extension -- and correct my

1 words if I'm -- you were saying it we have to -- then it
2 becomes a 2019 allocation that allows them to go to end of
3 2021 for in service?

4 MS. HOLLOWAY: Correct.

5 MR. VASQUEZ: But we can get a shorter date?

6 MS. HOLLOWAY: Yes. You may.

7 MR. VASQUEZ: So we could say whatever they
8 said, by --

9 MS. HOLLOWAY: Mr. Akbari mentioned the end of
10 March.

11 MS. VASQUEZ: So we could say by end of second
12 quarter, by June. We could reallocate?

13 MS. HOLLOWAY: Yes. With a shorter deadline.

14 MR. VASQUEZ: And with a June 30 or something,
15 in case of -- and they're 85 percent complete. They are
16 targeting mid-February to go in service. I mean, just my
17 perspective, if they weren't as far along in the project,
18 I'd be more hesitant to allow the reallocation.

19 MR. GOODWIN: It sounds like I'm going to make
20 a motion to stop all the other speakers from coming up and
21 saying the same thing. If you would, you're free to make
22 such a motion.

23 MR. VASQUEZ: Mr. Chairman, if I could be
24 recognized to make a motion.

25 MR. GOODWIN: You are so recognized.

1 MR. VASQUEZ: I would like to make a motion
2 that we approve the reissuance of the allocation for 2019,
3 however put an in-service due-by date of June 30, 2020.

4 MR. GOODWIN: Do I hear a second?

5 MS. THOMASON: June?

6 MR. VASQUEZ: Well, they asked for March, I
7 mean. I was --

8 MR. GOODWIN: Do I hear a second?

9 MR. BRADEN: I guess this is a point of
10 clarification. I want to understand, so are we granting
11 the force majeure?

12 MS. HOLLOWAY: Yes.

13 MR. BRADEN: And then extending the existing
14 credits?

15 MS. HOLLOWAY: Yeah, they would technically be
16 returning the credits and getting a new carryover
17 agreement with a new deadline on it.

18 MR. BRADEN: Did we specify that the limitation
19 of the carryover agreement is --

20 MS. HOLLOWAY: To June 30. Yes.

21 MR. GOODWIN: Okay. We have a motion. We
22 don't have a second.

23 MS. THOMASON: I'll be a reluctant second.

24 MR. GOODWIN: A reluctant second. I think
25 that's a first for you. I will enthusiastically accept

1 your reluctant second.

2 Okay. Does anybody else want to speak? Any
3 other questions?

4 You want to speak, Tamea?

5 MS. DULA: A legal question for Beau on this.
6 We have -- thank you very much -- a motion to approve the
7 force majeure reissuance of credits. But if the vote says
8 no, the rest of us -- if the vote taken is a negative
9 vote, would the others have the opportunity to speak?

10 MR. GOODWIN: Absolutely.

11 MS. DULA: Thank you. That's all I wanted to
12 know.

13 MR. GOODWIN: Okay. A point-of-clarification
14 question, very acceptable and very diplomatic.

15 Okay. We have a motion. No one else wants to
16 speak to that motion?

17 (No response.)

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

19 (A chorus of ayes.)

20 MR. GOODWIN: Opposed.

21 (No response.)

22 MR. GOODWIN: Okay. The motion passes.

23 Moving on to 18376 and 17700. Again, if anyone
24 wants to speak to these next two, we would encourage you
25 to come to the front.

1 MS. HOLLOWAY: I think these are going to be
2 okay. The next application we're discussing is number
3 18376. This is Lakeview Point Apartments. The
4 development received an award of \$1,500,000 of 9 percent
5 credits in 2018 with a placed-in-service deadline of
6 December 31, 2020.

7 On October 7 of 2019, we received a request for
8 extension of the 10 percent test to December 10, 2019,
9 which is one day prior to the last possible day allowed by
10 Internal Revenue Code.

11 We received a request to extend the placed-in-
12 service deadline under the force majeure rule on October
13 25, with a request that it appear on the November Board
14 agenda. The request did not appear on the November
15 agenda, and the meeting today is after the December 11
16 federal deadline.

17 The request indicates that force majeure
18 triggered by changes in law, rules, or regulations --
19 particularly the City of Garland has requested a change to
20 the access for the development and adopted a new
21 transportation plan to mandate the extension of Zion Road.

22 The applicant has documented their work with
23 the City of Garland over the past 22 months to negotiate
24 and move this matter to resolution, and that whole
25 timeline is in your Board materials.

1 The request includes letters from the lender
2 and investor expressing support for this request, and in
3 their letters both indicate that unless the deadline to
4 place the development in service is extended, they will be
5 unable to move forward with the project.

6 Staff believes that these events described meet
7 the requirements of the force majeure rule. In order that
8 the development owner not lose the award of 9 percent
9 credits due to failure to meet the extended 10 percent
10 test deadline, staff has executed a 2019 carryover
11 allocation agreement prior to this meeting and now
12 requests Board ratification of that agreement.

13 We recommend ratification of the action related
14 to treatment of Lakeview Point Apartments under the
15 application of force majeure rule be approved, along with
16 the 2019 carryover allocation agreement with the 2018 QAP
17 uniform multifamily rules and the 2019 program calendar
18 applicable to the development. The new placed-in-service
19 deadline will be December 31, 2021.

20 MR. GOODWIN: Okay. Do I hear a motion to
21 approve staff's recommendation?

22 MR. BRADEN: I'll make a motion to approve
23 staff's recommendation and approve ratification of their
24 prior action.

25 MR. GOODWIN: Second?

1 MS. THOMASON: Second.

2 MR. GOODWIN: Okay. It's been moved and
3 seconded. Anyone want to speak to this?

4 (No response.)

5 MR. GOODWIN: Okay. All those in favor, say
6 aye.

7 (A chorus of ayes.)

8 MR. GOODWIN: Opposed?

9 (No response.)

10 MR. GOODWIN: Okay.

11 MS. HOLLOWAY: Okay. Next one, application
12 17700. This is the Terraces at Arboretum. This
13 development received an award of \$1,500,000 of 9 percent
14 credits in 2017 with a placed-in-service deadline of
15 December 31, 2019.

16 On November 21, we received a request to extend
17 the placed-in-service deadline under the force majeure
18 rule. In the request the development owner states that
19 periods of severe weather have led to wet and flooded
20 conditions at the site of the development.

21 The continuously wet conditions caused by the
22 severe weather have delayed critical-path construction
23 activities, including site work, site grading and
24 excavation, underground utility installation, concrete
25 slab and paving placement, wood framing and drying

1 activities.

2 Per the request, there have been 93 days of
3 work delays caused by the severe weather. In addition,
4 the severe weather delayed installation of the dry
5 utilities and therefore the discovery of the design
6 coordination issue regarding dedicated three-phase service
7 until late in the construction process.

8 Unit interiors were essentially complete and
9 ready for turnover when this was discovered, and further
10 delays have been caused by utility company schedules.

11 Staff believes that the events described in the
12 request meet the requirements for force majeure and
13 recommend that the request for treatment of Terraces at
14 Arboretum under the application of the rule be approved
15 with the 2017 QAP and uniform rules and the 2019 program
16 calendar be applicable to the development, extending the
17 placed-in-service deadline to March 6 of 2020.

18 MR. GOODWIN: Any questions? Do I hear a
19 motion to approve staff's recommendation?

20 MR. BRADEN: So moved.

21 MR. GOODWIN: Second?

22 MS. THOMASON: Second.

23 MR. GOODWIN: Any other discussion?

24 (No response.)

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

1 (A chorus of ayes.)

2 MR. GOODWIN: Opposed?

3 (No response.)

4 MR. GOODWIN: Okay.

5 MS. HOLLOWAY: Okay. Next one. Our next item
6 is 7(e). This is Presentation, Discussion and Possible
7 Action to adopt the 2019 Multifamily Program's Application
8 Procedures Manual.

9 Our statute requires that the Board adopt a
10 manual to provide information regarding the administration
11 of and eligibility for participation in the housing tax
12 credit program.

13 The Department has created the multifamily
14 program's application procedures manual as a resource
15 guide for applicants really under all of our fund sources,
16 and the manual and its contents are not rules.

17 Staff has updated the manual to include the
18 2019 rule changes, including the addition of a new 1.4
19 item for reserving 2 percent of units for homeless
20 populations added by the Governor.

21 Staff recommends that the 2019 multifamily
22 program's application procedures manual be approved.

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

25 MR. VASQUEZ: Move to approve.

1 MR. GOODWIN: Second?

2 MR. BRADEN: Second.

3 MR. GOODWIN: No further discussion?

4 (No response.)

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

6 (A chorus of ayes.)

7 MR. GOODWIN: Opposed?

8 (No response.)

9 MR. GOODWIN: All right. Moving on to Item
10 7(f). Andrew is going to take that. Thank you, Marni.

11 MR. SINNOTT: Good morning, Chairman Goodwin,
12 Members of the Board. My name's Andrew Sinnott,
13 Multifamily Loan Program Administrator.

14 Item 7(f) relates to possible action regarding
15 approval of 2020-1 multifamily direct loan notice of
16 funding availability for publication in the *Texas*
17 *Register*.

18 So this is our annual NOFA in which we have
19 typically been utilizing several fund sources, including
20 HOME, TCAP repayment funds, National Housing Trust Fund
21 and NSP Program income.

22 In terms of HOME, the Department has
23 approximately \$13,872,985 in program year 2018 and 2019
24 HOME funds available for multifamily activities, of which
25 \$4,733,439 will be available in the Community Housing

1 Development Organization set-aside for nonprofits that
2 meet the CHDO requirements.

3 In terms of NHTF, should any funds remain from
4 the 2020-2 multifamily direct loan NOFA which was approved
5 by the Board last month and is currently open through
6 January 6, 2020, should we have any funds from that NOFA,
7 those funds will be made available in this 2020-1 NOFAS as
8 well.

9 In terms of NSP 1 program income and TCAP
10 repayment funds, we do not currently have any funds
11 available for use under the 2020-1 NOFA. So as a result,
12 the 2020-1 annual NOFA will begin with just the \$13.8
13 million in HOME as the sole source of funds available.

14 In the past few years, we've started the annual
15 NOFA with approximately 20- to \$30 million, but because of
16 such high demand in 2019, we're beginning with a
17 relatively small amount.

18 Just to give you all more background, in the
19 past few years, we've typically awarded 10 to 15 deals
20 under the annual NOFA with the total award amount ranging
21 from 10- to \$25 million annually.

22 Under the 2019-1 annual NOFA, we've awarded 23
23 deals, approximately \$50.6 million, with the potential for
24 two more deals being awarded at future Board meetings,
25 which could bring the total dollar amount up to

1 56 million.

2 So you can see we're taking a big leap -- we
3 took a big leap with the 2019-1 NOFA compared to the
4 previous NOFA.

5 MR. VASQUEZ: Will those other two deals go
6 against this 13 million?

7 MR. SINNOTT: No. No.

8 MR. VASQUEZ: Okay.

9 MR. SINNOTT: The \$13 million will continue
10 outside of the funds that we have available into 2019-1
11 NOFA. So staff will continue to monitor demand moving
12 forward and may make amendments to this NOFA at future
13 Board meetings to allow for additional funds to be made
14 available.

15 With that, staff recommends approval of the
16 2020-1 NOFA as presented today. Any questions?

17 MR. GOODWIN: Any questions? If not, do I hear
18 a motion to approve staff recommendation?

19 MR. BRADEN: So moved.

20 MR. GOODWIN: Second?

21 MR. VASQUEZ: Second.

22 MR. GOODWIN: No further discussion?

23 (No response.)

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

25 (A chorus of ayes.)

1 MR. GOODWIN: Opposed?

2 (No response.)

3 MR. GOODWIN: Item (g).

4 MR. SINNOTT: Okay. So we've got two awards
5 under Item 7(g). The first is for Laurel Creek
6 Apartments, number 19053. So this application received an
7 allocation of 9 percent housing tax credits and an award
8 of \$2 million in National Housing Trust Fund under the
9 2019-1 NOFA on July 25, 2019.

10 Subsequent to that July Board meeting, the
11 2019-1 NOFA was amended, which increased the maximum
12 request under the supportive housing soft repayment set-
13 aside to \$3 million, which led to the applicant submitting
14 an application requesting an additional 1 million to get
15 up to that max \$3 million amount.

16 The multifamily direct loan rules requires
17 applications for developments previously awarded
18 Department funds under any program to be found eligible by
19 the Board.

20 And this application has indicated that
21 additional NHTF will provide a hedge against factors such
22 as rising construction labor cost beyond their control and
23 unanticipated costs required by the City of Austin as they
24 go through the permitting process as the criteria for the
25 Board to consider in affirming their eligibility.

1 The applicant anticipates having substantially
2 final construction costs within the next 30 days, which
3 will prove up the need for these additional funds and
4 allow for the Department to complete its re-evaluation of
5 the transaction, so that the applicant and the Department
6 can execute a contract and the Department can commit its
7 2017 NHTF funds by February 5, 2020.

8 So this potential additional \$1 million award
9 would utilize the 2017 program year funds for which we
10 have to commit by February 5, 2020.

11 As a result of needing this additional time,
12 extension of the contract execution deadline in the
13 multifamily direct loan is necessary to allow for the
14 Department to complete its re-evaluation of the
15 transaction before executing the contract.

16 So staff recommends two things, with the
17 understanding that if the applicant does not fulfill all
18 conditions to enter into a contract with the Department on
19 or before February 5, 2020, the applicant may lose access
20 to the NHTF funding in whole or in part, because HUD
21 requires that the Department commit its 2017 NHTF by that
22 date.

23 So the two things that we're recommending is
24 approval of additional award of \$1 million in NHTF for the
25 2019-1 NOFA and that an extension of the original contract

1 execution deadline, in accordance with the direct-loan
2 rule, February 5, 2020.

3 So those are the two things we're recommending,
4 conditioned also on the applicant getting us the cost
5 documentation that we need to re-evaluate the transaction
6 by January 8, 2020.

7 MR. GOODWIN: And this is on Laurel Creek?

8 MR. SINNOTT: Correct.

9 MR. GOODWIN: Not on Roosevelt?

10 MR. SINNOTT: Correct.

11 MR. GOODWIN: Okay. Any other questions?

12 MR. VASQUEZ: I have several.

13 MR. SINNOTT: Sure.

14 MR. VASQUEZ: Okay. So this additional million
15 dollars, we're saying it's to cover increased costs?

16 MR. SINNOTT: Correct. And those increased
17 costs are kind of prospective at the moment, and we're
18 giving the applicant until January 8 to give us firm
19 construction costs that prove up the need for this
20 additional \$1 million.

21 We can look back through this applicant's other
22 deals in Austin, and it's really not unusual to see
23 increases of 1- to \$3 million to construction contract
24 from the time they get the original 9 percent allocation.

25 MR. VASQUEZ: Is there any requirement for them

1 to put in more equity in the project? For us to give more
2 money, they come up with more money?

3 MR. SINNOTT: Not under this Board action and
4 not under the rule, but it's not outside your ability to
5 do that.

6 MR. VASQUEZ: And we're calling this a direct
7 loan, but in reality this is another one of these free
8 money deals with 0 percent interest for 35 years, as I
9 read this?

10 MR. SINNOTT: I believe that's the case. Yes.
11 Deferred payable is the loan structure on this one. So no
12 payment would be due for the 35-year term as long as they
13 continue to maintain the property and it's in good
14 standing with the requirements of the land use restriction
15 agreement.

16 Then at the end of 35 years, assuming they're
17 still the owner -- if they transfer ownership, it comes
18 due immediately. But assuming they're still the owner in
19 35 years, it becomes due. That \$3 million becomes due and
20 payable.

21 And again, this is serving a supportive housing
22 population. This is kind of how we structured this set-
23 aside and how we've both in the NOFA and the rule.

24 So it's to provide -- basically because these
25 units can't support any debt service. That's why we're

1 kind of giving them these loan structures -- make these
2 loan structures available to these types of applications.

3 MR. VASQUEZ: If the cost only increased
4 \$200,000, then we only give 200-?

5 MR. SINNOTT: Exactly. Yeah.

6 MR. VASQUEZ: Okay. So it's going to be we
7 give a million and then they keep \$800,000 of money to use
8 someplace else.

9 MR. SINNOTT: And since speaking with the
10 applicant, it sounds like they're pretty close to getting
11 firm construction costs and they're already -- from
12 they've seen so far -- what the contractor's shown so far,
13 they already have a million dollars in increased costs.

14 MR. GOODWIN: All good questions.

15 MR. BRADEN: And the source of this funding is
16 federal money from 2017 program?

17 MR. SINNOTT: Right. So it's National Housing
18 Trust Fund, the block grant that we get from HUD, the
19 annual block grant. And this 2017 funding has a February
20 5, 2020, committed deadline.

21 MR. BRADEN: So if we don't make this loan, are
22 there other people lined up to get this, or is pretty much
23 we're going to lose that money?

24 MR. SINNOTT: There's -- the award after this
25 could potentially help in meeting that 2017 commitment

1 deadline. There's another award that could potentially
2 come to the Board next month that could help with meeting
3 that commitment deadline.

4 MR. BRADEN: But there's still funds available
5 for those additional awards?

6 MR. SINNOTT: Yes.

7 MR. BRADEN: So if we don't make it, we might
8 end up very well losing -- the State of Texas losing this
9 federal money.

10 MR. SINNOTT: Potentially. Yeah.

11 MR. GOODWIN: Any other questions? If not, do
12 I hear a motion to accept staff's recommendation on 19053?

13 MR. BRADEN: So moved.

14 MR. GOODWIN: Second?

15 MS. THOMASON: Second.

16 MR. GOODWIN: Did you want to speak?

17 MS. THOMASON: Sorry. I just --

18 MR. GOODWIN: Motion's been made and seconded.

19 Any further discussion?

20 (No response.)

21 MR. GOODWIN: If not, all those in favor, say
22 aye.

23 (A chorus of ayes.)

24 MR. GOODWIN: Opposed?

25 (No response.)

1 MR. GOODWIN: Okay. 19508.

2 MR. SINNOTT: So this is the second award under
3 7(g) for Roosevelt Gardens, 19508. This application
4 requested \$2 million in direct loan funds under the 2019-1
5 NOFA for Roosevelt Gardens, an existing multifamily
6 property here in Austin.

7 It is proposing to demolish 22 units and
8 construct 40 units on the same footprint; also, again
9 supportive housing population.

10 The property is and will continue to be subject
11 to a federally funded Housing Opportunities for People
12 With AIDS, HOPWA, contract with the City of Austin, that
13 requires the property to have preference for people living
14 with HIV and AIDS, and NHTF and HOME match units will also
15 have this preference.

16 This application requires the Board to do two
17 things in order for it to receive an award. First relates
18 to owner equity. As a result of the direct loan being the
19 only source of Department funding for this application,
20 the applicant was required to provide equity in an amount
21 not less than 20 percent of total housing development
22 cost, with the Board having the ability to approve less
23 than 20 percent on equity if the reduced level of equity
24 is considered sufficient to provide reasonable assurance
25 of the owner's ability to complete construction and

1 stabilize timely.

2 To that end, the applicant has provided
3 evidence of \$5 million, which is approximately 63 percent
4 of total housing development cost, and sought financing
5 primarily from the City of Austin at \$218,770, which is
6 approximately 2.8 percent of total housing development
7 cost in owner equity as a way to provide reasonable
8 assurance of the owner's ability to complete construction
9 and stabilization timely.

10 They've also provided documentation confirming
11 liquid assets of approximately 10 percent of total housing
12 development costs that can made available, if necessary.

13 Second thing that requires Board approval in
14 order to move forward with the award relates to the
15 appraisal requirements. The direct loan rule requires an
16 as-completed appraisal for applications proposing new
17 construction that results in total repayable loan to value
18 of not more than 80 percent.

19 The applicant provided an as-is appraisal that
20 estimates the market value of the current 50-year-old
21 22-unit property at \$2.25 million.

22 As a result, the applicant has provided a
23 waiver request of the direct loan rule -- that part of the
24 direct loan rule in accordance with 10 TAC 10.207, stating
25 that total repayable loan to value is at 78 percent based

1 on the as-is appraisal and that the total repayable loan
2 to value for the Department's loan will only decrease once
3 the property is demolished and 40 new units are
4 constructed.

5 Staff believes that the risk that is intended
6 to be mitigated by the direct loan rule with respect to
7 the appraisal requirement is being mitigated by the
8 reasonable expectation that the post-demolition and new
9 construction value of the property will significantly
10 exceed the current as-is value that shows the Department's
11 loan at 78 percent loan to value currently.

12 Additionally, staff believes that moving
13 forward with this award will allow the Department to
14 fulfill its obligations under Texas Government Code with
15 respect to addressing homelessness through interagency
16 efforts.

17 Should this application be recommended for
18 award, 14 of the 40 units will be restricted with National
19 Housing Trust Fund income and rent restrictions.

20 With that, staff recommends the Board approve
21 the lower amount of owner equity being provided and the
22 waiver requested on the appraisal requirements and award
23 this application \$2 million in NHTF.

24 Then similar to the previous award
25 recommendation, if the applicant does not fulfill all

1 conditions to enter into a contract with the Department on
2 or before February 5, 2020, as 2017 NHTF could potentially
3 be a funding source for this application, the applicant
4 may lose access the NHTF funding in whole or in part,
5 because HUD requires the Department commit its 2017 NHTF
6 grant by that date.

7 MR. GOODWIN: Any questions?

8 (No response.)

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

11 MR. BRADEN: Move to approve.

12 MR. GOODWIN: Second?

13 MR. VASQUEZ: Second.

14 MR. GOODWIN: Okay. Anyone want to speak to
15 this?

16 (No response.)

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

18 (A chorus of ayes.)

19 MR. GOODWIN: Opposed?

20 (No response.)

21 MR. GOODWIN: Thank you, Andrew.

22 MR. SINNOTT: Thank you. Then it looks like
23 last thing here is Item 8(a). That's next.

24 So Item 8(a) relates to the possible action on
25 an order adopting a repeal of 10 TAC Chapter 13, the

1 Multifamily Direct Loan Rule, and an order adopting the
2 new 10 TAC Chapter 13 for its publication in the *Texas*
3 *Register* and a substantial amendment to the one-year
4 action plan.

5 So this rule was previously presented to the
6 Board's Rules Committee and the full Board as a draft rule
7 back in October. Public comment was accepted between
8 October 14 and November 14, with the Department receiving
9 several comments from two commenters.

10 The comments primarily related to three aspects
11 of the proposed rule: owner equity requirements, revised
12 waiver limitations and loan structure. With regard to the
13 owner equity requirements and waiver limitations, staff
14 believes the rules already addressed the commenters'
15 concerns.

16 And then with regard to the loan structure
17 comments, staff does not believe the Department has any
18 flexibility to accommodate the pass-through loan structure
19 that the commenter requested that be available under the
20 multifamily direct loan rule, for a few reasons.

21 One, federal rules require a written lease
22 between the tenant and the owner of the rental housing
23 assisted with HOME and NHTF, which prohibits the
24 Department from making direct-loan awards to any entity
25 other than the development owner.

1 Additionally, the written agreement
2 requirements for HOME and NHTF further discuss the
3 Department's ability as the grantee or participating
4 jurisdiction to directly ensure and monitor the
5 performance of owners of rental housing.

6 And then beyond the federal prohibitions on
7 using pass-through financing structure, Texas Government
8 Code requires income and rent restrictions to be
9 enforceable by the Department.

10 So in order to ensure any restrictions under a
11 contract or land use restriction agreement are
12 enforceable, it's our opinion that these agreements must
13 be with the development owner.

14 Beyond that, there were some nonsubstantive
15 corrections and clarifying changes made to the rule since
16 the Board last reviewed this document last October.

17 Should the rule be adopted today, it will go
18 into the *Texas Register* and the Department will submit a
19 substantial amendment to the 2019 one-year action plan
20 previously submitted to HUD as a result of a change to the
21 method of distribution for NHTF. Those are changes in
22 13.4 and 13.5.

23 MR. GOODWIN: Any questions for Andrew? If
24 not, do I hear a motion to accept staff's recommendation
25 for Item 8(a)?

1 MS. THOMASON: So moved.

2 MR. GOODWIN: It's been moved. Do I have a
3 second?

4 MR. VASQUEZ: Second.

5 MR. GOODWIN: Okay. Moved and double-seconded.
6 So now any other discussions?

7 (No response.)

8 MR. GOODWIN: If not, all those in favor, say
9 aye.

10 (A chorus of ayes.)

11 MR. GOODWIN: Opposed?

12 (No response.)

13 MR. GOODWIN: Moving on to 8(b). Good morning.

14 MS. BOSTON: Hi. Good morning. Board Members,
15 I'm Brooke Boston, Director of Programs. I'm presenting
16 to you on Item 8(b) relating to the Department's rule for
17 our appeals process.

18 I would note for you in advance that this is
19 the appeals process for everything except competitive tax
20 credits and things that are layered with competitive
21 credits; those are under the QAP. So this is for
22 everything else.

23 In the fall we brought this rule to you as a
24 draft to be released for public comment. The primary
25 changes being proposed included a citation that needed to

1 be updated to align with changes in the QAP and
2 multifamily rules, a revision to clarify the admissibility
3 of documentation that was not originally part of an
4 application, and removal of language relating to the
5 ability of the Board to "overturn" a previous Board
6 decision.

7 The public comment we received on this focused
8 on two areas. The first was that the commenter requested
9 that the seven-day time period in which an appeal must be
10 filed by an appellant be extended to 14 days.

11 However, the deadline for appeal in this rule
12 is patterned after the appeal rule in the QAP for the tax
13 credit program, which takes its seven-day requirement from
14 statute.

15 Having the same timing and deadline in both
16 rules is intended to decrease potential confusion about
17 appeal timing, so we did not recommend changing that.

18 The other comment was in opposition to the
19 deletion of a clause that had provided the Board ability
20 to revisit a final decision of the Board for good cause
21 within 45 days of the Board decision.

22 The commenter believed that there may be times
23 when the Board makes a decision that will subsequently
24 discover was incorrectly rendered due to error in fact or
25 law.

1 However, the concern with the language at TDHCA
2 and the reason for its deletion is that it creates the
3 appearance of another level of appeal and would create a
4 potential that people would feel like they needed to wait
5 45 days after a Board action to make sure they could
6 really count on that Board's action.

7 So we felt like it was being eliminated in the
8 interest of balancing the appropriate process with the
9 accurate and final decision making. So ultimately no
10 changes were made in that request as well.

11 The rule is made available for public comment
12 through the 21st. We recommend approval of the rule as
13 presented in your Board materials.

14 MR. GOODWIN: Any questions? Do I hear a
15 motion to approve staff's recommendation for Item 8(b)?

16 MR. VASQUEZ: Move to approve staff's
17 recommendation.

18 MR. GOODWIN: Second?

19 MS. THOMASON: Second.

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

21 Any further discussion?

22 (No response.)

23 MR. GOODWIN: If not, all those say -- signify
24 your approval by saying aye.

25 (A chorus of ayes.)

1 MR. GOODWIN: Opposed?

2 (No response.)

3 MR. GOODWIN: Okay. 8(c).

4 MS. BOSTON: Item 8(c) relates to our rules
5 that address the Department's affirmative marketing
6 requirements and written policy and procedures.

7 While historically part of the compliance
8 rules, the affirmative marketing requirements and written
9 policy and procedures are now being handled separately.

10 This is because oversight of those two
11 activities and their associated review process have been
12 moved organizationally within the Department from the
13 compliance division to the fair housing data management
14 and reporting unit.

15 As a result, we wanted to separate those two
16 sections out as part of the compliance rule since they're
17 not directly under compliance anymore.

18 With the change in the rule location, minimal
19 edits were also proposed. In particular, the Department
20 modified the occupancy standard in response to concerns
21 we'd had from development owners and potential tenant
22 complaints.

23 In addition, you may remember at our meeting
24 last month there were comments made about this rule, and
25 it was pulled. We have addressed those concerns and

1 believe the draft presented today is now ready to go out
2 for comment and that the people who made the comments last
3 meeting are satisfied with the version of the rule.

4 Once approved, it will still go out for public
5 comment from December 27 to January 27 and will return to
6 the Board for final adoption. I'm happy to answer any
7 questions.

8 MR. GOODWIN: Any questions?

9 (No response.)

10 MR. GOODWIN: If not, do I hear a motion to
11 accept staff's recommendation for Item 8(c)?

12 MR. BRADEN: So moved.

13 MR. GOODWIN: Second?

14 MR. VASQUEZ: Second.

15 MR. GOODWIN: Okay. Any further discussion?

16 (No response.)

17 MR. GOODWIN: If not, signify by saying aye if
18 you approve.

19 (A chorus of ayes.)

20 MR. GOODWIN: Opposed?

21 (No response.)

22 MR. GOODWIN: Moving on to Item 8(d). Thank
23 you, Brooke. A return performance.

24 MR. REID: Yes. 8(d), Gavin Reid, Community
25 Affairs again. Item 8(d) describes the adoption of

1 revisions to Chapter 6 of the Texas Administrative Code.

2 Chapter 6 comprises the rules governing the
3 Community Affairs programs, which include the community
4 services block grant, community energy assistance program
5 and the weatherization assistance program.

6 Staff recognized the need for revisions to this
7 chapter to improve clarity, remedy discrepancies,
8 reorganize subdivisions, and streamline the crisis
9 assistance activity and correct other identified areas of
10 concern.

11 In September, the Board approved the proposed
12 rules for public comment, and comment was accepted for 32
13 days. Staff reviewed all comments received and provided a
14 reasoned response to each.

15 As a result of comments received, changes to
16 the rules were made and are reflected in the adopted rules
17 in your Board materials before you today. If authorized
18 by the Board, we will proceed to publish the adopted rules
19 in the *Texas Register* with an effective date of January 1,
20 2020.

21 Thank you, and I'm available for any questions
22 you might have.

23 MR. GOODWIN: Any questions?

24 (No response.)

25 MR. GOODWIN: Do I hear a motion to approve

1 staff's recommendation for Item 8(d)?

2 MR. VASQUEZ: So moved.

3 MR. GOODWIN: Second?

4 MS. THOMASON: Second.

5 MR. GOODWIN: All in favor, signify by saying
6 aye.

7 (A chorus of ayes.)

8 MR. GOODWIN: Opposed?

9 (No response.)

10 MR. GOODWIN: Thank you, Gavin.

11 MR. REID: Thank you.

12 MR. GOODWIN: Patricia. Item 8(e).

13 MS. MURPHY: Good morning. Patricia Murphy,
14 Director of Compliance. Item 8(e) on your agenda is
15 proposed amendments to sections of the compliance rule,
16 which is found in Subchapter F of the Department's
17 multifamily rules.

18 These rules were on the October 10 Board
19 meeting agenda and tabled to allow staff to meet with
20 stakeholders and explain the proposed changes.

21 A roundtable was held on October 21, 2019. The
22 rules were also on the November 7 Board meeting agenda,
23 but they were tabled at that time to address the fair
24 housing stuff.

25 In January of 2019, the current compliance

1 monitoring rule was adopted by the Board after a
2 comprehensive rulemaking process where the entire rule was
3 repealed and replaced.

4 Once we started monitoring under the current
5 rules, we recognized the need to change some things, and
6 most of the proposed changes today are just kind of clean-
7 up items.

8 However, there are two proposed changes before
9 you that could generate some comment, so I'd like to take
10 a minute to give you some detail about those items.

11 One of the proposed changes is in the section
12 of the rule regarding utility allowances. All of the
13 multifamily programs require an estimation of how much a
14 tenant pays for utilities, which is referred to as a
15 utility allowance.

16 The utility allowance is deducted from the rent
17 limit to determine the maximum amount of rent an owner can
18 charge the household. So if the rent limit's 900 and the
19 utility allowance is 75, the owner can charge the tenant
20 no more than 825.

21 The higher the utility allowance is, the less
22 rent the owner can collect from the household, and the
23 lower the utility allowance is, the more rent the owner
24 can collect from the household.

25 Staff doesn't want the utility allowance to be

1 high or low, but we want it to be correct or as close to
2 correct as possible. All the methods are an estimate and
3 none of them are perfect.

4 We believe the change we're proposing today
5 will help get the estimate closer to correct. The change
6 will impact methods where an owner picks a rate plan used
7 to calculate the allowance.

8 Areas with deregulated utilities use the Power
9 to Choose website to determine available plans. The
10 current rule allows an owner to use any rate plan
11 available that provides services to the building.

12 Some of the available plans provide a
13 promotional rate, and so it's that's like a term of three
14 to six months, and after that term, the rate increases.

15 Since the utility allowance only needs to be
16 updated once a year, the proposed change requires the use
17 of a rate plan that has a term of 12 months. This may
18 generate a slightly higher utility allowance, and staff's
19 proposing this change because we believe it's closer to
20 correct.

21 The other significant proposed amendment is in
22 the section regarding special rules about rent. The
23 proposed change would prohibit owners from increasing rent
24 during a lease term.

25 Some owners enter into leases with residents

1 for said amount of rent, and then they have the households
2 sign an addendum that allows the rent to be increased
3 during the lease term if the utility allowance goes down
4 or if the rent limits go up.

5 So suppose you entered into a lease for 12
6 months beginning in January for \$800. This year, the new
7 income and rent limits came out April 24 and most areas of
8 the state saw an increase. So if you signed one of these
9 addendums, probably around June, the owner would contact
10 you and would increase your rent.

11 When owners do this, it causes lots and lots of
12 resident complaints, and a lot of those complaints come
13 from people on a fixed income, seniors with social
14 security and have a very tight budget. And we're
15 proposing that this be disallowed and that owners would be
16 allowed to increase rents, but only at lease renewal.

17 There are other sections that are proposed for
18 amendment that I'm happy to tell you about, but those are
19 the two big changes that I think might generate some
20 comment. Any questions?

21 MR. GOODWIN: Any questions?

22 (No response.)

23 MR. GOODWIN: If not, do I hear a motion to
24 accept staff's recommendation?

25 MR. BRADEN: So moved.

1 MR. GOODWIN: Second?

2 MS. THOMASON: Second.

3 MR. GOODWIN: Any further discussion?

4 (No response.)

5 MR. GOODWIN: Hearing none, all those approved,
6 so aye.

7 (A chorus of ayes.)

8 MR. GOODWIN: Opposed?

9 (No response.)

10 MR. GOODWIN: Hearing none.

11 We pulled Item 8(f), so we have reached a point
12 in the agenda where it is appropriate to bestow great
13 praise on the outgoing chairman, and lavish gifts. The
14 more expensive, the more appreciated.

15 MR. WILKINSON: I think we might have a public
16 comment about another issue besides the awesome chairman
17 that we're losing today.

18 I'm going to start. Chairman Goodwin, thank
19 you so much for serving, for leading this Board. I
20 appreciate it. Thank you for hiring me.

21 MR. GOODWIN: Well, you're quite welcome. Some
22 lapses in judgment occur over time.

23 MR. WILKINSON: Best of luck to you. I know
24 you're not retiring retiring, but you're reducing your
25 responsibilities so you have more time for your

1 grandchildren and all that.

2 MR. GOODWIN: Exactly.

3 MR. WILKINSON: So now you all have to watch me
4 dig out presents and then hand them to him.

5 MR. GOODWIN: Oh, boy. The more the merrier.

6 MR. WILKINSON: Flag flown above our state's
7 capitol.

8 MR. GOODWIN: Wonderful. Thank you.

9 MR. WILKINSON: Proclamation from the Governor.

10 MR. GOODWIN: Well, thank you, sir. The
11 expensive ones coming now?

12 (General laughter.)

13 MR. WILKINSON: The big gavel.

14 MR. GOODWIN: Oh, boy. I've got a couple of
15 granddaughters that I could use this on.

16 MR. WILKINSON: You can hang it on the wall.

17 MR. GOODWIN: Oh, how nice. Thank you. Thank
18 you.

19 MR. WILKINSON: Flag certificate. The card
20 after the present. Right?

21 MR. GOODWIN: If there are no items anybody
22 wants to bring up for the agenda, I've got a few comments
23 I'd like to make.

24 It was five years ago this very month that I
25 stepped into this Board with my first meeting with the

1 commitment to Governor Perry that I would serve for three
2 months. In some ways it seems like just yesterday, and in
3 others, it seems like a thousand years.

4 But seasons come and go, and the time is to end
5 this one with me and TDHCA. I've been privileged to serve
6 alongside a number of dedicated Board members previous to
7 this Board, like Chairman J. Paul Ozer, Dr. Juan Muñoz,
8 Tolbert Chisum and Tom Gann, all of whom I miss.

9 And I'm indebted to this current Board, an
10 amazing group of men and women: Leslie and Asusena, who
11 couldn't be here today; Sharon, Paul, Leo, thank you very
12 much for your support and everything that you've done.

13 All of you are stars, and I could not have done
14 this job without you. You're greatly appreciated, and
15 it's going to be the one aspect of this service that I'm
16 going to miss the most.

17 Also, I'd be remiss if I didn't acknowledge and
18 thank Tim Irvine, our previous executive director, Mr.
19 David Cervantes -- I haven't seen David here this
20 morning -- our temporary executive -- where's David? Is
21 David here? He was here. You know, lunch calls, so he
22 did have a reason.

23 And as chair in this organization you have
24 reason to interact with a great number of the staff
25 members, and I have sung the praise of our staff out loud

1 and far and wide, but I want to give a special shout-out
2 to Beau Eccles. Thank you for all your guidance, your
3 counsel. It has been invaluable.

4 Marni Holloway, this tax credit thing is one of
5 the most complicated. There's a reason, I realize after
6 serving this Board, why I've been in real estate for 47
7 years and never messed with affordable housing, because
8 I'm not smart enough to figure out all these rules.

9 Homero, thank you for all your guidance and the
10 way you've handled everything. Monica and Brooke, just
11 absolutely terrific. This state is blessed to have you
12 guys as the staff.

13 I'm sure there are a lot of other staff members
14 that are deserving of that same praise that I just haven't
15 had the opportunity to interact with.

16 Bobby, I'm confident that the agency is in
17 great hands with you. I remember the first time I met you
18 and we walked out of your office and Tim Irvine looked at
19 and said, They're not many people in the Governor's office
20 that understand this agency the way that Bobby does.

21 And it's been a privilege to work with all of
22 you, alongside of you, and I know they will all feel the
23 same way about working with you in the future.

24 You know, I look back over these last five
25 years, and I'm amazed at what we've done, besides speeding

1 up the Board meetings.

2 (General laughter.)

3 MR. GOODWIN: Listen to some of these
4 achievements. Obviously they're not mine but ours as a
5 group together. Almost 33,000 households have become
6 homebuyers through our down-payment assistance program.
7 Homebuyer mortgage products, that's just something that's
8 very near and dear to my heart.

9 We financed new construction and rehabilitation
10 of more than 57,000 affordable housing units. We provided
11 critically needed community services to almost 683,000
12 homeless persons. Low-income households were helped with
13 paying their utility bills or weatherizing their homes to
14 the tune of not population, but 1.8 million households.

15 And this is just part of what we've
16 accomplished together. In summation, we've committed
17 around 7 billion in state and federal funds throughout
18 this five-year period. That is really something that I'm
19 very proud of and I know my fellow Board members are very
20 proud of.

21 We've done good work together here, and I'm
22 confident it will continue after I'm gone. I want to
23 thank you and make my last act to get one of my most
24 enjoyed acts out: entertain a motion to adjourn.

25 MS. THOMASON: So moved.

1 MR. GOODWIN: So moved. And seconded?

2 MR. BRADEN: Second.

3 MR. GOODWIN: We are adjourned. Thank you very
4 much.

5 (Whereupon, at 11:10 a.m., the meeting was
6 adjourned.)

C E R T I F I C A T E

MEETING OF: TDHCA Board meeting

LOCATION: Austin, Texas

DATE: December 12, 2019

I do hereby certify that the foregoing pages, numbers 1 through 93, inclusive, are the true, accurate, and complete transcript prepared from the verbal recording made by electronic recording by Elizabeth Stoddard before the Texas Department of Housing and Community Affairs.

DATE: December 18, 2019

(Transcriber)

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