

**CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM**

DEPARTMENT: City Attorney

AGENDA DATE: April 16, 2019

CONTACT PERSON/PHONE: Karla M. Nieman (915) 212-1115

SUBJECT:

Approve a resolution/ordinance /lease to do what? OR AUTHORIZE the City Manager to do what? Be descriptive of what we want Council to approve. Include \$ amount if applicable.

Discussion and action on a Resolution to authorize the Mayor to sign a Certificate of Approval of the Highest Elected Official in conjunction with the proposed issuance by the Alamito Public Facilities Corporation (the "Issuer"), a public facility of the Housing Authority of the City of El Paso, in an aggregate principal amount not to exceed \$24,000,000.00, for the Multifamily Housing Revenue Bonds RAD Conversion Program, DeWetter Apartments and Kathy White Apartments Project.

BACKGROUND / DISCUSSION:

Discussion of the what, why, where, when, and how to enable Council to have reasonably complete description of the contemplated action. This should include attachment of bid tabulation, or ordinance or resolution if appropriate. What are the benefits to the City of this action? What are the citizen concerns?

Section 147(f) of the Internal Revenue Code of 1986 requires that before the bonds are issued, the issuance of such tax exempt bonds must be approved by the highest elected official of the local government unit having jurisdiction over the arena in which such facility is located after a public hearing following reasonable notice to the public.

The Alamito Public Facilities Corporation published Notice of Public Hearing in the El Paso Times as required by Section 147(f) of the Internal Revenue Code on February 14, 2019 and February 15, 2019 and held public hearing on Friday, March 1, 2019.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Yes, a similar item was approved by Council on September 18, 2018 proposed revenue bonds issued by the Clifton Higher Education Finance Corporation. _____.

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the Item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

N/A

*****REQUIRED AUTHORIZATION*****

DEPARTMENT HEAD: _____

RESOLUTION

WHEREAS, the Alamito Public Facilities Corporation ("Alamito"), a public facility of the Housing Authority of the City of El Paso, Texas, is in the process of issuing the following Multi-Family Housing Revenue Bonds:

\$24,000,000 Multifamily Housing Revenue Bonds (HACEP RAD Conversion Program Phase IIIE (DeWetter Apartments and Kathy White Apartments Project), hereinafter referred to, as the "Bonds", and the financing therewith of a portion of the costs, in the respective aggregate principal amounts not to exceed \$13,000,000 for the DeWetter Apartments and not to exceed \$11,000,000 for the Kathy White Apartments, of acquisition, rehabilitation, and equipment of the two multifamily residential rental developments described in the Notice of Public Hearing and in the Minutes (collectively, the "Development"), to satisfy the requirements of Section 147(F) of the Internal Revenue Code of 1986, as amended (the "Code").

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986 requires that before the bonds are issued, the issuance of such tax exempt bonds must be approved by the highest elected official of the local governmental unit having jurisdiction over the area in which such facility is located after a public hearing following reasonable notice to the public;

WHEREAS, Alamito published a Notice of Public Hearing in the El Paso Times as required by Section 147(f) of the Internal Revenue Code on February 14, 2019 and February 15, 2019, and held a public hearing on Friday, March 1, 2019;

WHEREAS, Alamito now requests that the Mayor sign a Certificate of Approval of the Highest Elected Official;

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the Mayor be authorized to sign the Certificate of Approval of the Highest Elected Official attached to this Resolution for the sole purpose of compliance with Section 147(f) of the Internal Revenue Code of 1986.

APPROVED this ____ day of _____, 2019.

(Signatures appear on the following page)

CITY CLERK DEPT
2019 APR 5 AM 9:04

CITY OF EL PASO, TEXAS

Dee Margo
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Karla Nieman
City Attorney

APPROVED AS TO CONTENT:

Art Provenghi
Alamito Public Facilities Corporation, a public
facility corporation of the Housing Authority
of the City of El Paso, Texas

APPROVAL OF HIGHEST ELECTED OFFICIAL

WHEREAS, a public hearing was held by Alamito Public Facilities Corporation (the "Issuer") on March 1, 2019 after publication of a Notice of Public Hearing (the "Notice") in the *El Paso Times*, as described in the Affidavit of Publication attached hereto as Exhibit A, and members of the public were given the opportunity to appear at such public hearing, as shown in the Minutes of the Public Hearing attached hereto as Exhibit B (the "Minutes"); and

WHEREAS, it is necessary for the undersigned, as the highest elected official of the City of El Paso, Texas, to approve the issuance by the Issuer, a public facility corporation of the Housing Authority of the City of El Paso, Texas, of one or more issues or series of its \$24,000,000 Multifamily Housing Revenue Bonds (HACEP RAD Conversion Program (DeWetter Apartments and Kathy White Apartments) Project), hereinafter referred to, as the "Bonds", and the financing therewith of a portion of the costs, in the respective aggregate principal amounts not to exceed \$13,000,000 for the DeWetter Apartments and not to exceed \$11,000,000 for the Kathy White Apartments, of acquisition, rehabilitation, and equipment of the two multifamily residential rental developments described in the Notice of Public Hearing and in the Minutes (collectively, the "Development"), to satisfy the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code").

NOW, THEREFORE, based upon the evidence presented to me, for the sole purpose of satisfying the requirements of Section 147(f) of the Code of 1986 and for no other purpose, I, the undersigned Mayor of the City of El Paso, Texas, hereby approves the issuance, sale, execution and delivery of the series of the Bonds and the financing of the Development described therein in the aggregate principal amount not to exceed \$24,000,000.

This approval is not to be construed as (i) a representation or warranty by the City or the undersigned that the Bonds will be paid or that any obligations assumed by any of the parties will, in fact, be performed, (ii) as a pledge of the faith and credit of or by the City; further, the fact that the undersigned has approved the Bonds as required by the Code may not, in any event, be used as a sales device with respect to the Bonds, or (iii) this approval shall not be construed as a representation or warranty by the City concerning the validity of the Bonds.

In Witness Whereof, I have set my hand this _____, 2019.

City of El Paso, Texas

(Signatures appear on following page)

EXHIBIT A

Affidavit of Publication

AFFIDAVIT OF PUBLICATION

Ad No.
0001277003

Lilia
HOUSING AUTHORITY - LEGALS
5300 E PAISANO DR

EL PASO TX 79905

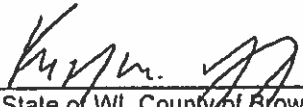
I, being duly sworn say: EL PASO TIMES, a daily newspaper of general circulation published in the City and County El Paso, State of Texas, which is a newspaper of general circulation and which has been continuously and regularly published for the period of not less than one year in the said Counties of El Paso, Otero, Dona Ana and that he/she was upon the dates herein mentioned in the EL PASO TIMES.

That the LEGAL copy was published in the EL PASO TIMES for the date(s) of such follows 2 DAY(s) to wit

02/14/19, 02/15/19

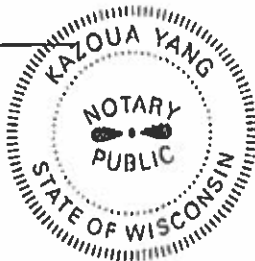

Legal Clerk

Subscribed and sworn before me this
15th of February 2019.


State of WI, County of Brown
NOTARY PUBLIC

11/9/22
My Commission Expires

Ad# 0001277003
P O HACEP Notice
of Affidavits 0.00



NOTICE OF PUBLIC HEARING ALAMITO PUBLIC FACILITIES CORPORATION MULTIFAMILY HOUSING REVENUE BONDS HACEP RAD CONVERSION PROGRAM DEWETTER APARTMENTS PROJECT KATHY WHITE APARTMENTS PROJECT

Notice is hereby given of a public hearing to be held by Alamito Public Facilities Corporation (the "Issuer"), a non-profit public facility corporation created by the Housing Authority of the City of El Paso, Texas (the "Authority"), on Friday, March 1, 2019, at 10:00 a.m., in the Board Room of the Administrative Offices of the Housing Authority of the City of El Paso, Texas, 5300 E. Paisano Drive, El Paso, Texas 79905, with respect to the issuance of multifamily housing revenue bonds (the "Bonds") to be issued by the Issuer in one or more series of tax-exempt bonds in an aggregate principal amount not to exceed \$24,000,000. Proceeds of the Bonds will be used to finance a portion of the costs of the two multifamily residential rental developments (collectively, the "Development") described below:

Proceeds of the Bonds to be issued by the Issuer in one or more series of tax-exempt bonds in an aggregate principal amount not to exceed \$24,000,000 will be loaned to EP DeWetter Two, LP (or a related person or affiliate thereof, the "DeWetter Two Borrower"), a Texas limited partnership, to finance a portion of the costs of the acquisition, rehabilitation and equipment of the following two multifamily residential rental developments, which will be initially owned by the DeWetter Two Borrower:

Kathy White Apartments containing approximately 80 units and located at 212 Lisbon Street, El Paso, Texas 79905, in the aggregate principal amount not to exceed \$13,000,000.

Kathy White Apartments containing approximately 80 units and located at 2300 Mobile Avenue, El Paso, Texas 79930, in the aggregate principal amount not to exceed \$11,000,000.

All interested persons are invited to attend such public hearing to express their views with respect to the Development and the issuance of the Bonds. Questions or requests for additional information may be directed to Mr. William T. Avila, Bracewell LLP, 300 Convent Street, Suite 2700, San Antonio, Texas 78205-3723 (210-295-3415).

Persons who intend to appear at the hearing and express their views are invited to contact Mr. Avila either in writing or by telephone in advance of the hearing. Any interested persons unable to attend the hearing may submit their views in writing to Mr. Avila prior to the date scheduled for the hearing.

This notice is published and the above-described hearing is to be held in satisfaction of the requirements of Section 147(f) of the Internal Revenue Code of 1986, as amended, regarding the public approval prerequisite to the exclusion from gross income for federal income tax purposes of the interest on the Bonds, other than any taxable bonds.

2/14, 2/15, 2019 (#1277003)

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2/14, 2/15, 2019 (#1277003)

2/14, 2/15, 2019 (#1277003)

EXHIBIT B

Minutes of Public Hearing

MINUTES OF PUBLIC HEARING
Alamito Public Facilities Corporation

Re: \$24,000,000 Alamito Public Facilities Corporation Multi-Family Housing Revenue Bonds (HACEP RAD Conversion Program (DeWetter Apartments and Kathy White Apartments Project)).

I, Art Provenghi, Hearing Officer of Alamito Public Facilities Corporation (the "Issuer"), a public facility corporation of the Housing Authority of the City of El Paso (the "Sponsor"), the issuer of the captioned series of bonds (the "Bonds"), called the Public Hearing of the Issuer to order at 10:00 a.m. on Friday, March 1, 2019 in the Board Room of the Administrative Offices of the Sponsor, 5300 E. Paisano, Drive, El Paso, Texas 79905.

I announced that I, Art Provenghi, was the Hearing Officer of Alamito Public Facilities Corporation, a public facility corporation of the Housing Authority of the City of El Paso, Texas and informed those in attendance that:

The required Notice of the Public Hearing for the Project was published twice on February 14, 2019 and February 15, 2019 in the *El Paso Times*, being a newspaper of general circulation in El Paso, Texas, a true and correct copy of which is attached hereto as Exhibit B and that:

I announced further that the Sponsor is proposing the issuance, in one or more series, of multifamily housing revenue bonds to be issued by the Issuer as tax-exempt bonds in an aggregate principal amount not to exceed \$24,000,000. The purpose of the Bonds is, in part, to finance a portion of the costs of the two multifamily residential rental developments described below as part of the Sponsor's RAD Conversion Program of the U.S. Department of Housing and Urban Development, referred to as the "Development", and that:

The proceeds of the Bonds not to exceed in aggregate principal amount \$24,000,000 will be loaned to EP DeWetter Two, LP, a Texas limited partnership (or a related person or affiliate thereof), to finance a portion of the costs, in the respective aggregate principal amount shown below, of acquisition, rehabilitation and equipment of each of the following two multifamily residential rental developments, which will be initially owned by EP DeWetter Two, LP (or a related person or affiliate thereof):

DeWetter Apartments containing approximately 99 units and located at 212 Lisbon Street, El Paso, Texas 79905, in the aggregate principal amount not to exceed \$13,000,000.

Kathy White Apartments containing approximately 80 units and located at 2300 Mobile Avenue, El Paso, Texas 79930, in the aggregate principal amount not to exceed \$11,000,000.


After informing those in attendance of the above, I declared that a Public Hearing, required under Section 147(f) of the Internal Revenue Code of 1986, was open for purposes of discussing the issuance of the Bonds by the Issuer and the locations and nature of the Development to be financed, refinanced or acquired with the Bonds.

I proceeded to hold the Public Hearing. Comments and discussions with respect to the Bonds and the Project are summarized in Exhibit A, attached hereto.

After sufficient time was given for all present to make their comments with respect to the Bonds and the Project, I declared the Public Hearing closed.

SIGNATURE TO FOLLOW

Dated: March 1, 2019.



Art Provenghi, Hearing Officer
Alamito Public Facilities Corporation, a public facility
corporation of The Housing Authority of the City of El Paso,
Texas

HEARING OFFICER'S SCRIPT FOR

PUBLIC HEARING OF

Alamito Public Facilities Corporation,
a public facility corporation of
Housing Authority of the City of El Paso, Texas

I am Art Provenghi, Hearing Officer of Alamito Public Facilities Corporation, a public facility corporation of the Housing Authority of the City of El Paso, Texas. The Housing Authority is proposing the issuance, in one or more series, of multifamily housing revenue bonds to be issued by the Issuer as tax-exempt bonds in an aggregate principal amount not to exceed \$24,000,000. The purpose of the Bonds is, in part, to finance a portion of the costs of the two multifamily residential rental developments (collectively, the "Development") described below as part of the Housing Authority's RAD Conversion Program of the U.S. Department of Housing and Urban Development.

The required Notice of Public Hearing for the Development and the issuance of the Bonds was published on February 14, 2019 and February 15, 2019 in the *El Paso Times*, being a newspaper of general circulation in El Paso, Texas and in El Paso County, Texas.

The proceeds of the Bonds not to exceed in aggregate principal amount \$24,000,000 will be loaned to EP DeWetter Two, LP, a Texas limited partnership (or a related person or affiliate thereof), to finance a portion of the costs in the respective aggregate principal amounts shown below, of acquisition, rehabilitation and equipment of the following two multifamily residential rental developments, which will be initially owned by EP DeWetter Two, LP (or a related person or affiliate thereof):

DeWetter Apartments containing approximately 99 units and located at 212 Lisbon Street, El Paso, Texas 79905, in the aggregate principal amount not to exceed \$13,000,000.

Kathy White Apartments containing approximately 80 units and located at 2300 Mobile Avenue, El Paso, Texas 79930, in the aggregate principal amount not to exceed \$11,000,000.


I hereby declare that this Public Hearing, required under Section 147(f) of the Internal Revenue Code of 1986, be open for purposes of discussing the issuance of the Bonds by the Issuer, and the locations and nature of the Development to be financed, refinanced or acquired with the Bonds by the Borrower.

[NOTE TO HEARING OFFICER: PROCEED TO HOLD THE PUBLIC HEARING.]

[NOTE TO HEARING OFFICER: AFTER SUFFICIENT TIME IS GIVEN FOR ALL PRESENT TO MAKE THEIR COMMENTS WITH RESPECT TO THE BONDS, AND THE NATURE AND LOCATIONS OF THE DEVELOPMENT, DECLARE THE PUBLIC HEARING CLOSED.]

I hereby declare the Public Hearing closed.

Dated: March 1, 2019,



Art Provenghi, Hearing Officer for
Alamito Public Facility Corporation, a public facility
corporation of the Housing Authority of the City of El Paso,
Texas

EXHIBIT A

SUMMARY OF COMMENTS AND DISCUSSION AT PUBLIC HEARING

Other than HIACEP staff in attendance at the Public Hearing, no member of the public attended the Public Hearing to speak, and thus no comments were made or discussion had about the Developments or the Bonds.

**ALAMITO PUBLIC FACILITIES CORPORATON
PUBLIC HEARING ON TAX EQUITY AND FISCAL RESPONSIBILITY ACT (TEFRA)
5300 EAST PAISANO DRIVE, EL PASO, TEXAS 79905
FRIDAY, MARCH 1, 2019 – 10:00 AM**

LIST OF ATTENDEES

[illegible]