

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

CITY CLERK DEPT
2019 SEP 11 AM 10:36

DEPARTMENT: City Attorney

AGENDA DATE: September 11, 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 authorizing the Mayor to sign the Certificate of the Highest Elected Official attached to the Resolution in conjunction with the proposed by Alamito Public Facilities Corporation (the "Issuer"), a public facility for the Housing Authority of the City of El Paso, in the amount of \$20,000,000.00 for the Jackie Robinson Memorial 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 June 5, 2019 and held public hearing on Thursday, June 20, 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 July 16, 2019 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:

\$20,000,000.00 Alamito Public Facilities Corporation Multifamily Housing Revenue Bonds (HACEP RAD Conversion Program (Jackie Robinson Memorial Apartments) Project),

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 June 5, 2019, and held a public hearing on Thursday, June 20, 2019; and

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 as 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 OF EL PASO, TEXAS

Dee Margo
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:



Karla M. 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 Thursday, June 20, 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 (the "City"), to approve the issuance by the Issuer, a public facility corporation of the Housing Authority of the City of El Paso, Texas, of its:

- \$20,000,000 Alamito Public Facilities Corporation Multifamily Housing Revenue Bonds (HACEP RAD Conversion Program (Jackie Robinson Memorial Apartments) Project),

hereinafter referred to, collectively, as the "Bonds", and the financing therewith of a portion of the costs of acquisition, rehabilitation, and equipment of the certain multifamily residential rental developments (collectively, the "Developments"), described in the Notice and in the Minutes 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 and for no other purpose, I, the undersigned Mayor of the City, hereby approve the issuance, sale, execution and delivery of the various issues and series of the Bonds and the financing of the Developments described therein in the aggregate principal amount not to exceed \$20,000,000.

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) 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, nor (iii) shall this approval be construed as a representation or warranty by the City concerning the validity of the Bonds.

SIGNATURE TO FOLLOW

[The remainder of this page intentionally left blank.]

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

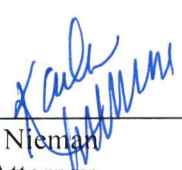
CITY OF EL PASO, TEXAS

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

EXHIBIT A

Affidavit of Publication

AFFIDAVIT OF PUBLICATION

Ad No.
0001287844

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

06/05/19, 06/06/19

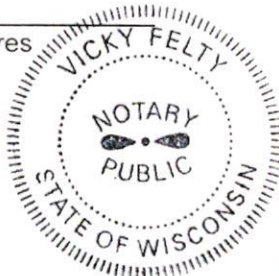

Legal Clerk

Subscribed and sworn before me this
6th of June 2019.


State of WI, County of Brown
NOTARY PUBLIC

My Commission Expires

Ad#: 0001287844
P O : Robinson Apartments Hearing
of Affidavits : 0.00



ALAMITO PUBLIC FACILITIES CORPORATION MULTIFAMILY HOUSING REVENUE BONDS HACEP RAD CONVERSION PROGRAM ROBINSON 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 Thursday, June 20, 2019, at 10:00 a.m., in the Board Room of the Authority's Administrative Offices located at 5300 E. Paisano Drive, El Paso, Texas 79905. The hearing is regarding an issue of tax-exempt bonds to be issued by the Issuer in one or more series in an aggregate principal amount not to exceed \$20,000,000 (the "Bonds"). The Bonds will be issued as exempt facility bonds for a qualified residential rental project (the "Development") pursuant to section 142(a)(7) of the Internal Revenue Code of 1986, as amended (the "Code"). The Development is known as Jackie Robinson Memorial Apartments and is located at 421 Mangrum Circle, El Paso, El Paso County, Texas 79912. The initial legal owner and principal user of the Development will be EP Jackie Robinson, LP, a Texas limited partnership, or a related person or affiliate thereof.

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 (210-299-3415).

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.
6/5, 6/6, 2019 (#1287844)

Legal Notices 152

Legal Notices 152

ALAMITO PUBLIC FACILITIES CORPORATION MULTIFAMILY HOUSING REVENUE BONDS HACEP RAD CONVERSION PROGRAM ROBINSON APARTMENTS PROJECT

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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.
6/5, 6/6, 2019 (#1287844)

EXHIBIT B

Minutes of Public Hearing

MINUTES OF PUBLIC HEARING
Alamito Public Facilities Corporation

Re: \$20,000,000 Alamito Public Facilities Corporation Multi-Family Housing Revenue Bonds (HACEP RAD Conversion Program (Jackie Robinson Memorial 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 project (the "Development") series of multifamily housing revenue bonds (collectively, the "Bonds"), called the Public Hearing of the Issuer to order at 10:00 a.m. on Thursday, June 20, 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 the Issuer and informed those in attendance that:

I declared that the required notice of the Public Hearing for the Developments was published at least once on Wednesday, June 5, 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 Bonds as tax-exempt bonds in an aggregate principal amount not to exceed \$20,000,000. The purpose of the Bonds is, in part, to finance a portion of the costs of the various 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, and that:

The proceeds of the Bonds not to exceed in aggregate principal amount \$20,000,000 will be loaned to EP Jackie Robinson, LP, a Texas limited partnership (or a related person or affiliate thereof), to finance a portion of the costs of acquisition, rehabilitation and equipment of the following multifamily residential rental development, which will be initially owned by EP Jackie Robinson, LP (or a related person or affiliate thereof):

Jackie Robinson Memorial Apartments containing approximately 184 units and located at 421 Mangrum Circle, El Paso, El Paso County, Texas 79912.

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.

The remainder of this page intentionally left blank.]

Dated: JUNE 20, 2019.

A handwritten signature in blue ink, appearing to read 'Art Provenghi', is written over a horizontal line.

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

EXHIBIT A

Other than HACEP 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
THURSDAY, JUNE 20, 2019 – 10:00 AM**

LIST OF ATTENDEES

[illegible]

BRACEWELL

MEMORANDUM

To: Mr. Art Provenghi, General Counsel
Housing Authority of the City of El Paso, Texas

From: William T. Avila

Date: July 3, 2019

Subject: Summary Statement Regarding Request for "Approval of Highest Elected Official"

Question Presented

Please describe the legal requirement and procedures related to the "Approval of the Highest Elected Official" in connection with the financing of the RAD Conversion Program Project by Housing Authority of the City of El Paso ("HACEP").

Answer

The U.S. Department of Housing and Urban Development ("HUD") has established its Rental Assistance Demonstration Program (the "RAD Program"), which permits local housing authorities in the U.S. to convert their public housing stock from public housing to Section 8 multifamily housing in an attempt to address the \$26 billion backlog of capital improvements needed across the U.S. Since October 2017, HUD has approved HACEP's application to convert its entire portfolio of public housing units to rental assistance based housing, which has included, among others, in HACEP's RAD Conversion Project the 184 public housing units of the Jackie Robinson Memorial Apartments Project.

HACEP is utilizing the 4% "low income housing tax credit ("LIHTC") program" administered by the Texas Department of Housing and Community Affairs ("TDHCA") to generate equity for the financing of its conversion to RAD and, thereby, reduce the amount of debt required to accomplish the financing of its RAD Conversion Program.

The LIHTC program is available, however, only if a portion of the financing involves the use of tax-exempt debt. HACEP's RAD Conversion Program financing qualifies for tax-exempt financing if certain federal and state law procedural requirements are met. In furtherance of the state law requirements, HACEP has already filed, or will be filing applications, for a "Private Activity Bond Volume Cap Allocation Reservation" with, and has already received, or will be receiving, from the Texas Bond Review Board ("BRB") a Reservation for a private activity tax-exempt bond allocation for in the amount of \$20,000,000 for the Jackie Robinson Memorial Apartments Project covering a total of 184 units.

William T. Avila
Partner

T: +1.210.299.3415 F: +1.800.404.3970
300 Convent Street, Suite 1500, San Antonio, Texas 78205-3723
bill.avila@bracewell.com bracewell.com

BRACEWELL

Mr. Art Provenghi, General Counsel
July 3, 2019
Page 2

The private activity bond reservations received, or to be received, by HACEP from the BRB will enable a subsidiary of HACEP, in each instance Alamito Public Facility Corporation, to issue up to \$20,000,000 in tax exempt bonds in one or more series to finance a portion of the costs of the acquisition, rehabilitation, construction, equipment, and RAD Conversion for the Jackie Robinson Memorial Apartments Project described above.

Section 147(f) of the U.S. Internal Revenue Code (the "Code") provides that obligations of a unit of local government can be treated as "tax-exempt" if issued for a qualified purpose, to finance a qualified facility, and if certain local approval procedures are complied with prior to the issuance of such obligations. The issuance of bonds to finance affordable housing is a qualified purpose. Multifamily housing rental units which are available by persons who are at or below 60% of the area median income are qualified facilities. Section 147(f), however, 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 of the public hearing. Section 147(f) provides further that notice is presumed to be reasonable if it is published at least one time in a newspaper of general circulation in the City no less than 14 days before the date of the public hearing.

In furtherance of the federal tax law requirements, HACEP published a Notice of Public Hearing in the El Paso Times, at least one time as required by Section 147(f), with the publication appearing on Wednesday June 5, 2019. HACEP held its public hearing Thursday, June 27, 2019, which was 22 days after the date of publication of the Notice of Public Hearing, to comply with the requirements of Section 147(f). HACEP now requests that the Mayor sign the form of a certificate evidencing his consent to the issuance of the Bonds described in the Notice of the Public Hearing.

WTA

WTA/scb

#5954857.1