

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

CITY CLERK DEPT  
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**DEPARTMENT:** City Manager - Office of Management & Budget  
**AGENDA DATE:** November 26, 2019  
**CONTACT PERSON/PHONE:** K. Nicole Cote, Director of OMB, (915) 212-1092

**SUBJECT:**

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 \$30,000,000 for the Jackie Robinson Memorial Apartments project.

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**BACKGROUND / DISCUSSION:**

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 October 22, 2019 and held public hearing on Tuesday, October 29, 2019.

**PRIOR COUNCIL ACTION:**

Yes, a similar item was approved by Council on October 1, 2019 proposed revenue bonds issued by the Alamito Public Facilities Corporation

**AMOUNT AND SOURCE OF FUNDING:**

N/A

\*\*\*\*\*REQUIRED AUTHORIZATION\*\*\*\*\*

**DEPARTMENT HEAD:**

*K. Nicole Cote*

**DATE:**

*11/26/19*

## RESOLUTION

**WHEREAS**, on September 17, 2019 the City Council authorized the Mayor to sign the Certificate of Highest Elected Official for the purpose of compliance with Section 147(f) of the Internal Revenue Code of 1986 for the issuance of \$20,000,000.00 of Revenue Bonds by the Alamito Public Facilities Corporation for the Jackie Robinson Memorial Apartments; and

**WHEREAS**, after the signature of the Certificate of the Highest Elected Official by the Mayor, the Alamito Public Facilities Corporation informed the City that it intended to issue \$30,000,000.00 of Revenue Bonds for the Jackie Robinson Memorial Apartments instead of \$20,000,000.00; and

**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:

\$30,000,000.00 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 October 22, 2019, and held a public hearing on Tuesday, October 29, 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.

(Signatures of the Following Page)

APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF EL PASO, TEXAS**

\_\_\_\_\_  
Dee Margo  
Mayor

ATTEST:

\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT

*for* *Sal M. Cortez*  
\_\_\_\_\_  
Karla M. Nieman  
City Attorney

\_\_\_\_\_  
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 Tuesday, October 29, 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:

- \$30,000,000 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 \$30,000,000.

**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

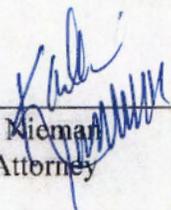
\_\_\_\_\_  
Dee Margo  
Mayor

ATTEST:

\_\_\_\_\_  
Laura D. Prine  
City Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

  
\_\_\_\_\_  
Karla Nieman  
City Attorney

\_\_\_\_\_  
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

# El Paso Times

PART OF THE USA TODAY NETWORK

## Affidavit of Publication

Ad # 0003850862

HOUSING AUTHORITY - LEGALS  
5300 E PAISANO DR

EL PASO, TX 79905

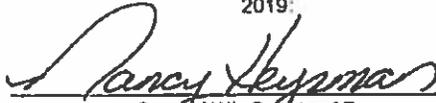
I, being duly sworn say: El Paso Times, a daily newspaper of general circulation published in the City and County El Paso, State of Texas, which is a newspaper of general circulation and which has been continuously and regularly published for the period of not less than one year in the said County of El Paso, 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 DAY(s) to wit

October 22, 2019

  
Legal Clerk

Subscribed and sworn before me this October 22,  
2019:

  
Nancy Heyrman  
State of WI, County of Brown  
NOTARY PUBLIC

5.15.23

My commission expires

NANCY HEYRMAN  
Notary Public  
State of Wisconsin

Ad # 0003850862  
PO # : TEFRA PH  
# of Affidavits : 1

### NOTICE OF PUBLIC HEARING 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 Tuesday, October 29, 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 \$30,000,000 (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, Bracowell 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.  
10/22, 2019 (3850862)

### NOTICE OF PUBLIC HEARING ALAMITO PUBLIC FACILITIES CORPORATION MULTIFAMILY HOUSING REVENUE BONDS HACEP RAD CONVERSION PROGRAM ROBINSON APARTMENTS PROJECT

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10/22, 2019 (3850862)



MINUTES OF PUBLIC HEARING  
Alamito Public Facilities Corporation

Re: \$30,000,000 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 Tuesday, October 29, 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 Tuesday, October 22, 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 \$30,000,000. 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 \$30,000,000 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.

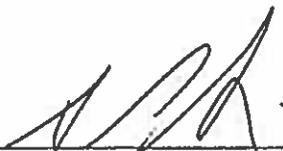
After informing those in attendance of the above, I declared that a Public Hearing, required under Section 147(f) of the Internal Revenue Code of 1986, was open for purposes of discussing the issuance of the Bonds by the Issuer and the locations and nature of the Development to be financed, refinanced 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: OCTOBER 29, 2019.



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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  
 TUESDAY, OCTOBER 29, 2019 - 10:00 AM

LIST OF ATTENDEES

NAME:	ADDRESS:	PHONE NO:	WILL YOU BE OFFERING TESTIMONY?	
			YES	NO
Alexandria Herrera	5300 Paisano	915-849-3654		<input checked="" type="checkbox"/>
Aramando Herrera	5300 E Paisano	915-849-3660		<input checked="" type="checkbox"/>
Forrest Ely	5300 E. Paisano	915-849-3880		<input checked="" type="checkbox"/>
Art Coverghi	5300 E. Paisano	915-849-3709		<input checked="" type="checkbox"/>
Gracey Muleady	5300 E Paisano	(915) 849-3655		<input checked="" type="checkbox"/>
JOHN MOYER	5300 E. PAISANO	915-849-2654		<input checked="" type="checkbox"/>
Tom Cline	5300 E. PAISANO	915-497-7919		<input checked="" type="checkbox"/>
Tom DeJoye	5700 E. PAISANO	915-849-3817		<input checked="" type="checkbox"/>
ARACELY SAENZ	5300 E. PAISANO	915-849-3702		<input checked="" type="checkbox"/>

# BRACEWELL

## MEMORANDUM

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

**From:** William T. Avila

**Date:** November 12, 2019

**Subject:** Summary Statement Regarding Request for "Approval of Highest Elected Official" – Jackie Robinson Memorial Apartments Project

### 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 \$30,000,000 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

November 12, 2019

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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 \$30,000,000 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 7 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 Tuesday, October 22, 2019. HACEP held its public hearing Tuesday, October 29, 2019, which was 7 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