

**SUPPLEMENTAL BOARD BOOK
OF
January 12, 2023**



Leo Vasquez III, Chair

Kenny Marchant, Vice-Chair

Ajay Thomas, Member

Brandon Batch, Member

Anna Maria Farias, Member

Holland Harper, Member

**TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
GOVERNING BOARD MEETING**

**A G E N D A
10:00 AM
January 12, 2023**

**Greer Bldg., Williamson Board Room
125 East 11th Street
Austin, Texas 78701**

CALL TO ORDER

ROLL CALL

Leo Vasquez, Chair

CERTIFICATION OF QUORUM

Pledge of Allegiance - I pledge allegiance to the flag of the United States of America, and to the republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

Texas Allegiance - Honor the Texas flag; I pledge allegiance to thee, Texas, one state under God, one and indivisible.

CONSENT AGENDA

Items on the Consent Agenda may be removed at the request of any Board member and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion or approval at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the Tex. Gov't Code, Texas Open Meetings Act. Action may be taken on any item on this agenda, regardless of how designated.

ITEM 1: APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:

EXECUTIVE

- a) Presentation, discussion, and possible action on the Board meeting minutes summary for December 8, 2022

Beau Eccles
Board
Secretary

ASSET MANAGEMENT

- b) Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application

Rosalio Banelos
Director of Asset
Management

19133	Legacy at Alazan	San Antonio
19286	Hartwood at West Little York	Houston
20115	Avenue at Sycamore Park	Fort Worth

- c) Presentation, discussion, and possible action regarding a Material Amendment to the National Housing Trust Fund Application for Burnet Place Apartments (NHTF #82900020504)

FINANCIAL ADMINISTRATION

- d) Presentation, discussion, and possible action to adopt a resolution regarding designating signature authority and superseding previous resolutions

Joe Guevara
Director of Financial
Administration

This will be an open, public meeting conducted under Tex. Gov't Code, chapter 551, without COVID-19 emergency waivers. There will not be a remote online or telephone option for public participation. The meeting, however, will be streamed online for public viewing. Masks will be available for members of the public who wish to attend this public meeting.

MULTIFAMILY BOND FINANCE

- e) Presentation, discussion, and possible action on Inducement Resolution No. 23-014 for Multifamily Revenue Bonds regarding authorization for filing applications for private activity bond authority for Palladium Old FM 471 (#22624)

Teresa Morales
Director of
Multifamily Bond

RULES

- f) Presentation, discussion, and possible action on an order proposing repeal of 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter H, Income and Rent Limits, and order proposing new Subchapter H, Income and Rent Limits, and directing their publication for public comment in the *Texas Register*
- g) Presentation, discussion, and possible action on the statutory four-year rule review and order of proposed readoption for 10 TAC Chapter 10, Uniform Multifamily Rules, Subchapter F, Compliance Monitoring, §10.603, Notices to the Internal Revenue Service (HTC Developments during the Compliance Period), and §10.620, Monitoring for Non-Profit Participation, HUB, or CHDO Participation, and directing their publication for public comment in the *Texas Register*
- h) Presentation, discussion, and possible action on the statutory four-year rule review and order of proposed readoption for 10 TAC Chapter 29, Texas Single Family Neighborhood Stabilization Program Rule, and directing its publication for public comment in the *Texas Register*
- i) Presentation, discussion, and possible action on the proposed repeal of 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations; proposed new 10 TAC Chapter 1, Subchapter B, Accessibility and Reasonable Accommodations; and directing publication for public comment in the *Texas Register*

Amy Hammond
Manager of Compliance
Monitoring

Brooke Boston
Deputy Director
of Programs

LEGAL

- j) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Dale Meadows (HOME 530200 / CMTS 4001)
- k) Presentation, discussion, and possible action regarding the adoption of an Agreed Final Order concerning Plainview Triplex (HOME 532315 / CMTS 2658)

Nina Wiggins
Associate General
Counsel

CONSENT AGENDA REPORT ITEMS

ITEM 2: THE BOARD ACCEPTS THE FOLLOWING REPORTS:

- a) Media Analysis and Outreach Report, November 2022
- b) Report on TDHCA One-Time or Temporary Allocations – Pandemic Response and Other Initiatives
- c) Report regarding a Request for Proposal for Financial Advisor issued by the Texas Department of Housing and Community Affairs.

Michael Lyttle
Director of
External Affairs
Brooke Boston
Deputy Director
of Programs
Scott Fletcher
Director of Bond
Finance

ACTION ITEMS

Executive Session: the Chair may call an Executive Session at this point in the agenda in accordance with the below-cited provisions¹

Leo Vasquez
Chair

ITEM 3: EXECUTIVE

- a) Executive Director’s Report
- b) Presentation, discussion, and possible action authorizing amendments to vendor contracts as required by Texas Government Code, Chapter 2155

Bobby Wilkinson
Executive Director, TDHCA
Brooke Boston
Deputy Director
of Programs

¹ Note: the Chair is not restricted by this item, and may call for an Executive Session at any time during the posted meeting.

ITEM 4: ASSET MANAGEMENT

Presentation, discussion, and possible action regarding a Material Amendment to the Housing Tax Credit Application

Rosalio Banuelos
Director of Asset Management

20406 Gala at Central Park Hurst

ITEM 5: RULES

- a) Presentation, discussion, and possible action on an order adopting the amended 10 TAC Chapter 10 Subchapter E, Post Award and Asset Management Requirements, and directing its publication for adoption in the *Texas Register*
- b) Presentation, discussion, and possible action on amendments to §10.606 Construction Inspections; §10.613 Lease Requirements; §10.626 Liability; and §10.627 Temporary Suspension of Sections of this Subchapter and directing their publication for public comment in the *Texas Register*

Rosalio Banuelos
Director of Asset Management

Amy Hammond
Manager of Compliance Monitoring

ITEM 6: HOME AMERICAN RESCUE PLAN

Presentation, discussion, and possible action regarding an award to Burnet Place Apartments Application Number 22722 from the special purpose HOME American Rescue Plan National Housing Trust Fund set-aside, as described

Naomi Cantu
HOME American Rescue Plan Director

ITEM 7: BOND FINANCE

Report on the closing of the Department’s Single Family Mortgage Revenue Bonds, Series 2022B (Tax-Exempt)

Scott Fletcher
Director of Bond Finance

ITEM 8: MULTIFAMILY BOND FINANCE

Presentation, discussion, and possible action regarding the issuance of a Determination Notice for 4% Housing Tax Credits for Coppertree Village (#22474) in Houston.

Teresa Morales
Director of Multifamily Bond

ITEM 9: COMMUNITY AFFAIRS

Presentation, discussion, and possible action regarding nonrenewal of Big Bend Community Action Committee, Inc.’s Comprehensive Energy Assistance Program and Low Income Household Water Assistance Program contracts and future funding and the authorization of staff to identify a permanent provider(s), through release and subsequent award of a Request for Applications, to administer the Comprehensive Energy Assistance Program and potentially the Low Income Household Water Assistance Program in Brewster, Culberson, Hudspeth, Jeff Davis, and Presidio counties (the area served by Big Bend Community Action Committee, Inc.)

Michael De Young
Director of Community Affairs

ITEM 10: MULTIFAMILY FINANCE

Presentation, discussion, and possible action regarding an award from the Multifamily Direct Loan (MFDL) 2022-1 Notice of Funding Availability (NOFA) to Fiesta Trails in San Antonio

Connor Jones
MFDL Program Manager

PUBLIC COMMENT ON MATTERS OTHER THAN ITEMS FOR WHICH THERE WERE POSTED AGENDA ITEMS

The Board may go into Executive Session Pursuant to Tex. Gov’t Code §551.074 for the purposes of discussing personnel matters including to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee;

Pursuant to Tex. Gov’t Code §551.071(1) to seek the advice of its attorney about pending or contemplated litigation or a settlement offer;

Pursuant to Tex. Gov't Code §551.071(2) for the purpose of seeking the advice of its attorney about a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Tex. Gov't Code Chapter 551; including seeking legal advice in connection with a posted agenda item;

Pursuant to Tex. Gov't Code §551.072 to deliberate the possible purchase, sale, exchange, or lease of real estate because it would have a material detrimental effect on the Department's ability to negotiate with a third person; and/or

Pursuant to Tex. Gov't Code §2306.039(c) the Department's internal auditor, fraud prevention coordinator or ethics advisor may meet in an executive session of the Board to discuss issues related to fraud, waste or abuse.

OPEN SESSION

If there is an Executive Session, the Board will reconvene in Open Session. Except as specifically authorized by applicable law, the Board may not take any actions in Executive Session.

ADJOURN

To access this agenda and details on each agenda item in the board book, please visit our website at www.tdhca.state.tx.us or contact Michael Lyttle, 512-475-4542, TDHCA, 221 East 11th Street, Austin, Texas 78701, and request the information. If you would like to follow actions taken by the Governing Board during this meeting, please follow TDHCA account (@tdhca) on Twitter.

Individuals who require auxiliary aids, services or sign language interpreters for this meeting should contact Nancy Dennis, at 512-475-3959 or Relay Texas at 1-800-735-2989, at least five days before the meeting so that appropriate arrangements can be made. Non-English speaking individuals who require interpreters for this meeting should contact Danielle Leath, 512-475-4606, at least five days before the meeting so that appropriate arrangements can be made.

Personas que hablan español y requieren un intérprete, favor de llamar a Danielle Leath, al siguiente número 512-475-4606 por lo menos cinco días antes de la junta para hacer los preparativos apropiados.

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BOARD ACTION REQUEST
MULTIFAMILY BOND DIVISION
JANUARY 12, 2023

Presentation, discussion, and possible action on Inducement Resolution No. 23-014 for Multifamily Housing Revenue Bonds regarding authorization for filing applications for private activity bond authority for Palladium Old FM 471 W (#22624)

RECOMMENDED ACTION

WHEREAS, a pre-application, as further detailed below, was submitted to the Department for consideration of an inducement resolution;

WHEREAS, Board approval of the inducement resolution is the first step in the application process for a multifamily bond issuance by the Department; and

WHEREAS, approval of the inducement will allow staff to submit an application to the Bond Review Board (BRB) for the issuance of a Certificate of Reservation associated with the Development;

NOW, therefore, it is hereby

RESOLVED, that based on the foregoing, Inducement Resolution No. 23-014 to proceed with the application submission to the BRB for possible receipt of State Volume Cap issuance authority under the Private Activity Bond Program for Palladium Old FM 471 W, is hereby approved in the form presented to this meeting.

BACKGROUND

General Information: The BRB administers the annual private activity bond authority for the State of Texas. The Department is an issuer of Private Activity Bonds and is required to induce an application for bonds prior to the submission to the BRB. Approval of the inducement resolution does not constitute approval of the development but merely allows the Applicant the opportunity to move into the full application phase of the process. Once the application receives a Certificate of Reservation, the Applicant has 180 days to close on the private activity bonds.

During the 180-day process, the Department will review the complete application for compliance with the Department's Rules, including, but not limited to, site eligibility and threshold, as well as previous participation as it relates to developments previously funded through the Department. During the review of the full application, staff will also underwrite the transaction and determine financial feasibility in accordance with the Real Estate Analysis Rules. The Department will schedule and conduct a public hearing, and the complete application, including a transcript from the hearing, will then be presented to

the Board for a decision on the issuance of bonds as well as a determination on the amount of housing tax credits anticipated to be allocated to the development.

This inducement resolution would reserve approximately \$37,850,000 in private activity bond volume cap. Staff notes that the Department's set-aside for the 2023 program year is anticipated to be approximately \$186,000,000. The pre-application listed below will be added to the Department's waiting list for a bond reservation.

22624 – Palladium Old FM 471

The new constructions of 288 units is proposed for this multifamily development located at Old FM 471 West and Talley Road, San Antonio, Bexar County. The transaction is proposed to have a Priority 2 designation and will serve the general population. The average income minimum set-aside has been elected. Of the 288 units, 24 of the units will be rent and income restricted at 30% of Area Median Family Income (AMFI), 210 of the units will be rent and income restricted at 60% of AMFI, 36 of the units will be rent and income restricted at 70%, and the remaining 18 units will be rent and income restricted at 80% of AMFI. The Department has not received any letters of support or opposition for the proposed development.

Bond Inducement Amount: \$37,850,000

RESOLUTION NO. 23-014

RESOLUTION DECLARING INTENT TO ISSUE MULTIFAMILY REVENUE BONDS OR NOTES WITH RESPECT TO RESIDENTIAL RENTAL DEVELOPMENT; AUTHORIZING THE FILING OF ONE OR MORE APPLICATIONS FOR ALLOCATION OF PRIVATE ACTIVITY BONDS WITH THE TEXAS BOND REVIEW BOARD; AND AUTHORIZING OTHER ACTION RELATED THERETO

WHEREAS, the Texas Department of Housing and Community Affairs (the “Department”) has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code, as amended, (the “Act”) for the purpose, among others, of providing a means of financing the costs of residential ownership, development and rehabilitation that will provide decent, safe, and affordable living environments for persons and families of low, very low and extremely low income and families of moderate income (all as defined in the Act); and

WHEREAS, the Act authorizes the Department: (a) to make mortgage loans to housing sponsors to provide financing for multifamily residential rental housing in the State of Texas (the “State”) intended to be occupied by persons and families of low, very low and extremely low income and families of moderate income, as determined by the Department; (b) to issue its revenue bonds or notes for the purpose, among others, of obtaining funds to make such loans and provide financing, to establish necessary reserve funds and to pay administrative and other costs incurred in connection with the issuance of such bonds or notes; and (c) to pledge all or any part of the revenues, receipts or resources of the Department, including the revenues and receipts to be received by the Department from such multifamily residential rental development loans, and to mortgage, pledge or grant security interests in such loans or other property of the Department in order to secure the payment of the principal or redemption price of and interest on such bonds or notes; and

WHEREAS, it is proposed that the Department issue its revenue bonds or notes in one or more series for the purpose of providing financing for the multifamily residential rental development (the “Development”) more fully described in Exhibit A attached hereto. The ownership of the Development as more fully described in Exhibit A will consist of the applicable ownership entity and its principal or a related person (the “Owner”) within the meaning of the Internal Revenue Code of 1986, as amended (the “Code”); and

WHEREAS, the Owner has made not more than 60 days prior to the date hereof, payments with respect to the acquisition, construction, reconstruction or renovation of the Development and expect to make additional payments in the future and desire that they be reimbursed for such payments and other costs associated with the Development from the proceeds of tax-exempt and taxable, as applicable, obligations to be issued by the Department subsequent to the date hereof; and

WHEREAS, the Owner has indicated their willingness to enter into contractual arrangements with the Department providing assurance satisfactory to the Department that the requirements of the Act and the Department will be satisfied and that the Development will satisfy State law, Section 142(d) and other applicable Sections of the Code and Treasury Regulations; and

WHEREAS, the Department desires to reimburse the Owner for some or all of the costs associated with the Development listed on Exhibit A attached hereto, but solely from and to the extent, if any, of the proceeds of tax-exempt and taxable, as applicable, obligations to be issued in one or more series to be issued subsequent to the date hereof; and

WHEREAS, at the request of the Owner, the Department reasonably expects to incur debt in the form of tax-exempt and taxable, as applicable, obligations for purposes of paying the costs of the Development described on Exhibit A attached hereto; and

WHEREAS, in connection with the proposed issuance of the Bonds (defined below), the Department, as issuer of the Bonds, is required to submit for the Development one or more Applications for Allocation of Private Activity Bonds or Applications for Carryforward for Private Activity Bonds (the "Application") with the Texas Bond Review Board (the "Bond Review Board") with respect to the tax-exempt Bonds to qualify for the Bond Review Board's Allocation Program in connection with the Bond Review Board's authority to administer the allocation of the authority of the State to issue private activity bonds; and

WHEREAS, the Governing Board of the Department (the "Board") has determined to declare its intent to issue its multifamily revenue bonds or notes for the purpose of providing funds to the Owner to finance the Development on the terms and conditions hereinafter set forth; NOW, THEREFORE,

BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS THAT:

ARTICLE 1

OFFICIAL INTENT; APPROVAL OF CERTAIN ACTIONS

Section 1.1. Authorization of Issue. The Department declares its intent to issue its Multifamily Housing Revenue Bonds or Notes (the "Bonds") in one or more series and in amounts estimated to be sufficient to (a) fund a loan or loans to the Owner to provide financing for the respective Development in an aggregate principal amount not to exceed those amounts, corresponding to the Development, set forth in Exhibit A; (b) fund a reserve fund with respect to the Bonds if needed; and (c) pay certain costs incurred in connection with the issuance of the Bonds. Such Bonds will be issued as qualified residential rental development bonds. Final approval of the Department to issue the Bonds shall be subject to: (i) the review by the Department's credit underwriters for financial feasibility; (ii) review by the Department's staff and legal counsel of compliance with federal income tax regulations and State law requirements

regarding tenancy in the respective Development; (iii) approval by the Bond Review Board, if required; (iv) approval by the Attorney General of the State of Texas (the “Attorney General”); (v) satisfaction of the Board that the respective Development meets the Department’s public policy criteria; and (vi) the ability of the Department to issue such Bonds in compliance with all federal and State laws applicable to the issuance of such Bonds.

Section 1.2. Terms of Bonds. The proposed Bonds shall be issuable only as fully registered bonds or notes in authorized denominations to be determined by the Department; shall bear interest at a rate or rates to be determined by the Department; shall mature at a time to be determined by the Department but in no event later than 40 years after the date of issuance; and shall be subject to prior redemption upon such terms and conditions as may be determined by the Department.

Section 1.3. Reimbursement. The Department reasonably expects to reimburse the Owner for all or a portion of the costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition of real property and construction, reconstruction or renovation, as applicable, of its Development and listed on Exhibit A attached hereto (“Costs of the Development”) from the proceeds of the Bonds, in an amount which is reasonably estimated to be sufficient: (a) to fund a loan to provide financing for the acquisition and construction or rehabilitation and equipping of its Development, including reimbursing the applicable Owner for all costs that have been or will be paid subsequent to the date that is 60 days prior to the date hereof in connection with the acquisition and construction or rehabilitation of the Development; (b) to fund certain reserves that may be required for the benefit of the holders of the Bonds; and (c) to pay certain costs incurred in connection with the issuance of the Bonds.

Section 1.4. Principal Amount. Based on representations of the Owner, the Department reasonably expects that the maximum aggregate principal amount of debt issued to reimburse the Owner for the Costs of the Development will not exceed the amount set forth in Exhibit A which corresponds to the applicable Development.

Section 1.5. Limited Obligations. The Owner may commence with the acquisition and construction or rehabilitation of the Development, which Development will be in furtherance of the public purposes of the Department as aforesaid. On or prior to the issuance of the Bonds, each Owner will enter into a loan agreement, on terms agreed to by the parties, on an installment payment basis with the Department under which the Department will make a loan to the applicable Owner for the purpose of reimbursing the Owner for the Costs of the Development and the Owner will make installment payments sufficient to pay the principal of and any premium and interest on the applicable Bonds. The proposed Bonds shall be special, limited obligations of the Department payable solely by the Department from or in connection with its loan or loans to the Owner to provide financing for its Development, and from such other revenues, receipts and resources of the Department as may be expressly pledged by the Department to secure the payment of the Bonds.

Section 1.6. The Development. Substantially all of the proceeds of the Bonds shall be used to finance the Development, which are to be occupied entirely by Eligible Tenants, as determined by the Department, and which are to be occupied partially by persons and families of low income such that the requirements of Section 142(d) of the Code are met for the period required by the Code.

Section 1.7. Payment of Bonds. The payment of the principal of and any premium and interest on the Bonds shall be made solely from moneys realized from the loan of the proceeds of the Bonds to reimburse the Owner for costs of its Development.

Section 1.8. Costs of Development. The Costs of the Development may include any cost of acquiring, constructing, rehabilitating, or reconstructing, as applicable, improving, equipping, installing and expanding the Development. Without limiting the generality of the foregoing, the Costs of the Development shall specifically include the cost of the acquisition of all land, rights-of-way, property rights, easements and interests, the cost of all machinery and equipment, financing charges, inventory, raw materials and other supplies, research and development costs, interest prior to and during construction and for one year after completion of construction whether or not capitalized, necessary reserve funds, the cost of estimates and of engineering and legal services, plans, specifications, surveys, estimates of cost and of revenue, other expenses necessary or incident to determining the feasibility and practicability of acquiring, constructing, reconstructing, improving and expanding the Development, administrative expenses and such other expenses as may be necessary or incident to the acquisition, construction, reconstruction, improvement and expansion of the Development, the placing of the Development in operation and that satisfy the Code and the Act. The Owner shall be responsible for and pay any costs of its Development incurred by it prior to issuance of the Bonds and will pay all costs of its Development which are not or cannot be paid or reimbursed from the proceeds of the Bonds.

Section 1.9. No Commitment to Issue Bonds. Neither the Owner nor any other party is entitled to rely on this Resolution as a commitment to issue the Bonds and to loan funds, and the Department reserves the right not to issue the Bonds either with or without cause and with or without notice, and in such event the Department shall not be subject to any liability or damages of any nature. Neither the Owner nor any one claiming by, through or under the Owner shall have any claim against the Department whatsoever as a result of any decision by the Department not to issue the Bonds.

Section 1.10. Conditions Precedent. The issuance of the Bonds following final approval by the Board shall be further subject to, among other things: (a) the execution by the Owner and the Department of contractual arrangements, on terms agreed to by the parties, providing assurance satisfactory to the Department that all requirements of the Act will be satisfied and that the Development will satisfy the requirements of Section 142(d) of the Code (except for portions to be financed with taxable bonds or notes); (b) the receipt of an opinion from Bracewell LLP or other nationally recognized bond counsel acceptable to the Department (“Bond Counsel”), substantially to the effect that the interest on the tax-exempt Bonds is excludable

from gross income for federal income tax purposes under existing law; and (c) receipt of the approval of the Bond Review Board, if required, and the Attorney General.

Section 1.11. Authorization to Proceed. The Board hereby authorizes staff, Bond Counsel and other consultants to proceed with preparation of the Developments' necessary review and legal documentation for the filing of one or more Applications and the issuance of the Bonds, subject to satisfaction of the conditions specified in this Resolution. The Board further authorizes staff, Bond Counsel and other consultants to re-submit an Application that was withdrawn by an Owner.

Section 1.12. Related Persons. The Department acknowledges that financing of all or any part of the Development may be undertaken by any company or partnership that is a "related person" to the respective Owner within the meaning of the Code and applicable regulations promulgated pursuant thereto, including any entity controlled by or affiliated with the Owner.

Section 1.13. Declaration of Official Intent. This Resolution constitutes the Department's official intent for expenditures on Costs of the Development which will be reimbursed out of the issuance of the Bonds within the meaning of Sections 1.142-4(b) and 1.150-2, Title 26, Code of Federal Regulations, as amended, and applicable rulings of the Internal Revenue Service thereunder, to the end that the Bonds issued to reimburse Costs of the Development may qualify for the exemption provisions of Section 142 of the Code, and that the interest on the Bonds (except for any taxable Bonds) will therefore be excludable from the gross incomes of the holders thereof under the provisions of Section 103(a)(1) of the Code.

Section 1.14. Execution and Delivery of Documents. The Authorized Representatives named in this Resolution are each hereby authorized to execute and deliver all Applications, certificates, documents, instruments, letters, notices, written requests and other papers, whether or not mentioned herein, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution.

Section 1.15. Authorized Representatives. The following persons are hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Board, the Executive Director of the Department, the Director of Bond Financial Administration of the Department, the Director of Bond Finance of the Department, the Director of Multifamily Bonds, and the Secretary or any Assistant Secretary to the Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution

ARTICLE 2

CERTAIN FINDINGS AND DETERMINATIONS

Section 2.1. Certain Findings Regarding Development and Owner. The Board finds that:

- (a) the Development is necessary to provide decent, safe and sanitary housing at rentals that individuals or families of low and very low income and families of moderate income can afford;
- (b) the Owner will supply, in their Development, well-planned and well-designed housing for individuals or families of low and very low income and families of moderate income;
- (c) the Owner are financially responsible;
- (d) the financing of the Development is a public purpose and will provide a public benefit; and
- (e) the Development will be undertaken within the authority granted by the Act to the Department and the Owner.

Section 2.2. No Indebtedness of Certain Entities. The Board hereby finds, determines, recites and declares that the Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or pledge or loan of the faith or credit or taxing power of the State, the Department or any other political subdivision or municipal or political corporation or governmental unit, nor shall the Bonds ever be deemed to be an obligation or agreement of any officer, director, agent or employee of the Department in his or her individual capacity, and none of such persons shall be subject to any personal liability by reason of the issuance of the Bonds. The Bonds will be a special limited obligation of the Department payable solely from amounts pledged for that purpose under the financing documents.

Section 2.3. Certain Findings with Respect to the Bonds. The Board hereby finds, determines, recites and declares that the issuance of the Bonds to provide financing for the Development will promote the public purposes set forth in the Act, including, without limitation, assisting persons and families of low and very low income and families of moderate income to obtain decent, safe and sanitary housing at rentals they can afford.

ARTICLE 3

GENERAL PROVISIONS

Section 3.1. Books and Records. The Board hereby directs this Resolution to be made a part of the Department's books and records that are available for inspection by the general public.

Section 3.2. Notice of Meeting. This Resolution was considered and adopted at a meeting of the Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Board.

Section 3.3. Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

PASSED AND APPROVED this 12th day of January, 2023.

EXHIBIT "A"

Description of the Owner and the Development

Project Name	Owner	Principals	Amount Not to Exceed
Palladium Old FM 471 W	Palladium Old FM 471 W, Ltd., a to-be-formed Texas limited partnership	General Partner: Palladium Old FM 471 W GP, LLC, a to-be-formed Texas limited liability company;	\$37,850,000
Costs – Acquisition/construction/development of an approximately 288 unit affordable, multifamily housing development to be known as Palladium Old FM 471 W, located at approximately Old FM Road 471 West and Talley Road, San Antonio, Bexar County, Texas 78253			

2c

BOARD REPORT ITEM
BOND FINANCE DIVISION
JANUARY 12, 2023

Report regarding a Request for Proposal for Financial Advisor issued by the Texas Department of Housing and Community Affairs

BACKGROUND

On August 23, 2022, the Texas Department of Housing and Community Affairs (the Department) issued a Request for Proposal for Financial Advisor. Submission deadline was September 13, 2022. The Department received responses from three firms; Stifel Nicholas, Caine Mitter, and cFX, for consideration.

A review team of Department staff consisting of Heather Hodnett - Manager of Single Family Finance, Teresa Morales - Director of Multifamily Bonds, Eric Luna - Financial Analyst Bond Finance, Mark Fugina - Financial Analyst Bond Finance, and Scott Fletcher, Director of Bond Finance, evaluated the responses.

Scoring criterion were:

1. Demonstrated commitment to developing and maintaining a sophisticated housing finance practice.
2. Financial Advisory experience with State Agencies.
3. Financial Advisory experience with TBA programs.
4. Experience in financing structures designed to generate funds for down payment assistance.
5. Quantitative capabilities and cash flow modeling experience.
6. Experience as a swap advisor.
7. Experience with bond issues in the State of Texas, including experience with the Texas Bond Review Board.
8. Experience of personnel assigned to TDHCA
9. Competitiveness of proposed fee structure.

In accordance with the specified selection criteria, Stifel Nicholas & Company, Incorporated received the highest score and was selected to serve as the Department's Financial Advisor.

The Stifel Nicholas team has been TDHCA's Financial Advisor for several years and has extensive institutional knowledge of TDHCA processes, programs, and indentures.

The term of the award will be two years; the Department can renew and extend the award for up to three additional one-year terms.

3b

BOARD ACTION REQUEST

EXECUTIVE DIVISION

JANUARY 12, 2023

Presentation, discussion, and possible action authorizing amendments to vendor contracts as required by Texas Government Code, Chapter 2155

RECOMMENDED ACTION

WHEREAS, Texas Gov't Code, §2155.088 requires that "after a contract for goods or services is awarded under this chapter, the governing body of a state agency, if applicable, must hold a meeting to consider a material change to the contract and why that change is necessary," and the statute specifies that a material change includes "extending the length of or postponing the completion of a contract for six months or more; or increasing the total consideration to be paid under a contract by at least 10 percent, including by substituting certain goods, materials, products, or services";

WHEREAS, the Department has four vendor contracts that were entered into utilizing the authority granted under the Governor's COVID Disaster Declaration, now in need of amendment that meet this materiality standard that are needed to continue to ensure consistent timely accountable program management of three of its largest programs in serving low income Texans – the Texas Rent Relief Program (TRR) and the Homeowner Assistance Fund Program (HAF) both funded by the U.S. Department of the Treasury, and the Texas Utility Help Program (TUH) funded by the U.S. Department of Health and Human Services' Low Income Home Energy Assistance Program (LIHEAP) and Low Income Household Water Assistance Program (LIHWAP);

WHEREAS, the first of these contracts, Contract #21-332-004, relates to the Department's contract with Deloitte and Touche LPP (Deloitte) who provides quality control (QA/QC) and fraud services for TRR, and following receipt by the Department of additional funds from the U.S. Department of Treasury for Emergency Rental Assistance (ERA) and in anticipation of additional ERA funds being received, the contract is being amended to increase the amount of the contract from \$11,718,626 to \$15,732,049.04 (an increase of \$4,013,424.98) and to extend the timeframe of the contract through December 31, 2023, so that Deloitte can fulfill the Department's continuing need for such services;

WHEREAS, the second of these contracts, Contract #332-22-3006, relates to the Department's contract with CohnReznick LLP (CohnReznick) who provides QA/QC and fraud services for HAF, and because the program will continue to operate for approximately another year, the contract is being amended to extend the timeframe of the contract through January 14, 2024, so that CohnReznick can continue to provide such services;

WHEREAS, the third of these contracts, Contract #332-22-3004, relates to the Department's contract with Yardi Systems, Inc. (Yardi) who provides turnkey program administration and application services for HAF, and because the Department added additional program components that increase the work performed by Yardi, the contract is being amended to revise the per application fee from \$250 to \$280, so that Yardi can be fully compensated for their efforts based on the Department's programmatic changes, with no change to the total contract award amount; and

WHEREAS, the fourth of these contracts, Contract #22-332-006, relates to the Department's contract with Yardi Systems, Inc. (Yardi) who provides turnkey program administration and application services for TUH, which is being amended to revise the contract amount from \$77,141,694 to \$125,543,556 (inclusive of the program funds that will go to households), and reflecting an increase to their actual fee earned of up to \$9,462,787, so that Yardi can continue to provide statewide turnkey services with LIHEAP funds;

NOW, therefore, it is hereby

RESOLVED, that in compliance with Texas Gov't Code, §2155.088, the amendments to Contracts 21-332-004 with Deloitte Touche LPP; Contract #332-22-3006 with CohnReznick, LLP; Contract #332-22-3004 with Yardi Systems, Inc.; and Contract #22-332-006 with Yardi Systems, Inc., are hereby approved as described herein and the Executive Director and his designees are authorized, directed, and empowered to take all necessary actions to effectuate the Board's determination.

BACKGROUND

Through the course of the Department's administration of its pandemic funds, the Department has required the services of multiple vendors across a variety of programs. In the engagement of these vendors, the Department has utilized, and continues to utilize, the Governor's COVID Disaster Declaration that provides that ". . . to the extent that the enforcement of any state statute or administrative rule regarding contracting or procurement would impede any state agency's emergency response that is necessary to cope with this declared disaster, I hereby suspend such statutes and rules for the duration of this declared disaster for that limited purpose." Such declaration continues to be in effect.

Staff believes that such a waiver of state statutes or administrative rules continues to be applicable to these vendor agreements, which continue to be used to administer pandemic response programs. However, out of deference to the spirit of the statute and because there is sufficient time at this period to seek such approval without negatively impacting delivery of critical services to clients, staff is seeking to comply with Tex. Gov't Code, §2155.088 which requires that "after a contract for goods or services is awarded under this chapter, the governing body of a state agency, if applicable, must hold a meeting to consider a material change to the

contract and why that change is necessary.” The statute specifies that a material change includes “extending the length of or postponing the completion of a contract for six months or more; or increasing the total consideration to be paid under a contract by at least 10%, including by substituting certain goods, materials, products, or services.”

The Department has four vendor contracts in need of amendment that meet this materiality standard that are needed to continue to ensure consistent timely accountable program management of three of its largest pandemic response programs in serving low income Texans – the Texas Rent Relief Program (TRR), the Homeowner Assistance Fund Program (HAF), and the Texas Utility Help Program (TUH) funded by the Low Income Home Energy Assistance Program (LIHEAP). More detail on each amendment is provided below.

Deloitte – TRR

The Department contracted with Deloitte on June 10, 2021, to provide QA/QC and fraud services for TRR. The contract expires on January 31, 2023. Preventing and detecting fraud has been, and continues to be, an integral part of the TRR Program. Because the program continues to receive additional funds from Treasury that are being reallocated from other state and local governments, the program has continued beyond what the Department initially anticipated. Staff believes that QA/QC and fraud services will be needed through August 31, 2023, with a term ending December 31, 2023, to provide for close-out. Therefore, staff is requesting to amend the Contract to extend the contract through December 31, 2023, and fund the additional QA/QC and Fraud services through August 31, 2023. This amendment will increase the not-to-exceed contract amount from \$11,718,626 to \$15,732,049.04; the additional \$4,013,424.98 will cover fraud services from January 2022 through August 2023. TRR has sufficient administrative funds to cover these expenses.

Whether Deloitte will utilize the full NTE, as requested for approval, is difficult to determine. The volume of Deloitte’s work over the next 6 months will depend on the amount of additional ERA 2 funds TDHCA ends up receiving, the number of applications reviewed, and fraud/irregularity cases reported/detected/investigated. As noted above, TDHCA anticipates that it may receive up to three more rounds of reallocated ERA 2 funds from the Treasury, but the amount and the timing of when those funds will be received is unknown, making it hard to know whether Deloitte will reach its NTE amount. The contract is structured to allow TDHCA flexibility given the future funding uncertainty presented by Treasury. Deloitte will only get paid for work completed. If in a few months, their services are not required, the Department would not pay the NTE amount, and this amount could be repurposed for direct assistance or other administrative costs.

Over the next 6 months, as TRR opens its portal again to accept new applications and disburse remaining funds (\$90M + any new additional funds received), the program is projecting Deloitte will need to review 5,000 more cases. The additional amount requested is based on Deloitte’s estimate of the work to review those cases, requiring roughly 3,000 hours per month for a cost of approximately \$500,000 per month; with 8 months until the contract expiration that results in this roughly \$4 million increase.

(see table below)

Deloitte TRR Contract Information	
Original Contract NTE	\$1,273,260
Contract NTE from Prior Amendments	\$11,718,624
Amount Paid to Date	~\$11.5 Million
Amount remaining Unpaid	~\$150,000
Expected Amount to be Billed	Possibly up to NTE amount
New (Requested) Contract NTE	\$15,732,049.04
New NTE as Percentage of Total Program Activity*	0.64%

* The Total TRR Program funds are \$2,448,835,794.24. This percentage reflects Deloitte’s contract, at the new proposed NTE contract amount, as a percentage of those Total Program funds.

CohnReznick - HAF

The Department contracted with CohnReznick on January 13, 2022 to provide QA/QC and fraud services for HAF. The contract expires on January 14, 2023. Preventing and detecting fraud has been, and continues to be, an integral part of the HAF Program. Because the initial contract was only for a year, and the program still has significant funds remaining to assist households, there still is continuing need for such QA/QC services. CohnReznick is agreeable to continuing their services for an additional year. Because there are still funds unbilled in their contract, we are not recommending a change to the contract amount at this time, although depending on the length of the program this may be necessary in the future. This is only an extension of time.

CohnReznick HAF Contract Information	
Original Contract NTE	\$2,500,000
Amount Paid to Date	\$626,031
Amount remaining Unpaid	\$1,873,969
Expected Amount to be Billed	Possibly up to NTE amount
NTE as Percentage of Total Program Activity*	0.29%

* The Total HAF Program funds are \$842,214,006. This percentage reflects CR’s contract, at its original and continuing contract amount, as a percentage of those Total Program funds.

Yardi – HAF

The Department contracted with Yardi on October 29, 2021, to provide turnkey program administration and application services for HAF. Yardi provides a bundle of services including hosting a web based application intake and processing system; performing application review, prioritization, underwriting, and approval; performing calculation of payments; processing payments; preparing reporting; and hosting a call center for the program.

Since the inception of HAF the Department has changed the program design several times to add activities under our HAF Plan (which has been approved by Treasury), including allowing advance payment of mortgage bills due and directing \$100 million of HAF funds to go to assist households with utility assistance. Yardi collaboratively took these activities on adding teams of staff to work these requests when they come in. Both added activities increased work load required of Yardi – in particular the payment of advance payments of mortgage bills now creates a series of payments being made monthly, rather than one payment being made in a lump sum.

This amendment revises the per application fee from \$250 to \$280 to adjust for the added program activities occurring. Originally, under the eligible program activities there were only 4 program design elements (mortgage reinstatement, taxes, insurance, and homeowner’s association fees). Two additional design elements were added - the making of future mortgage payments which increased work load by approximately 10% and the utility work which increased work load by roughly 20%. Because most applications are taking advantage of one or both of those additional activities, the increased per applicant rate of \$280 applies to all applications.

This amendment will only be effective on cases billed after January 1, 2023. As there are still significant unbilled funds in Yardi’s contract, the adjustment does not increase the maximum NTE contract amount, but allows Yardi to be more fully compensated on a per application basis for their efforts based on the Department’s programmatic changes. Whether Yardi will utilize the full NTE, which is not being increased at this time, is difficult to determine.

Yardi HAF Contract Information	
Original Contract NTE	\$ 75,000,000
Amount Paid to Date	\$21,672,687.78
Amount remaining Unpaid	\$53,327,313
Expected Amount to be Billed	Possibly up to NTE amount
NTE as Percentage of Total Program Activity*	8.9%

* The HAF Program Total funds are \$842,214,006. This percentage reflects Yardi’s contract, at its original contract amount, as a percentage of those Program Total funds.

Yardi - TUH

The Department contracted with Yardi on June 16, 2022, to receive a portion of the state’s allocation of LIHEAP to provide turnkey program administration and application services for TUH. The original contract contemplated services provided for only a fixed amount of program assistance; however as nationally allocations to LIHEAP continue to be increased, additional LIHEAP resources have been come to Texas and have been directed to Yardi to disburse, which warrants adjusting the pay structure to Yardi.

Initially the Department increased Yardi’s contract award by an additional \$7,840,863 in November. It should be noted that unlike the other contracts, this contract is structured similarly to a subrecipient contract, in that the contract reflects the total program funds that Yardi will process on the Department’s behalf including the funds to be paid to utilities on behalf of eligible households, and then denotes that they are eligible to be paid their administrative expenses as a share of that, much like a subrecipient. The reason this program is set up differently is that, unlike HAF and TRR which were new temporary programs with limited regulations, the LIHEAP program has been in existence for years, has a strong federal regulatory structure, and has state rules and policies that govern the use of funds.

It is also for this reason as well that a specific QA/QC provider was not procured as with the other two Treasury programs. In addition to those reasons, risk is lower with LIHEAP since payments are only made to utility providers (not households), further the TDCHA compliance division is performing periodic reviews of client files to determine areas of improvement and to identify opportunities for training.

With Yardi’s successful performance as a statewide provider of energy assistance as indicated by the number of eligible households served (10,000+) and its expenditure rate (\$25 million since inception seven months ago), as well as an ever-present and increasing need in Texas for energy assistance, the Department believes it is necessary and beneficial to the Comprehensive Energy Assistance Program to provide Yardi with an additional \$48,401,862 which has been allocated to Texas by USHHS as part of Program Year 2023 Low Income Home Energy Assistance Program (LIHEAP) funding and 2023 Infrastructure and Investment Jobs Act (IIJA) funding. This current amendment revises the contract amount from \$77,141,694 to \$125,543,556, reflecting an increase to their actual fee earned of \$9,462,787 of that amount. (consistent with the same proportion of administrative and program services eligible costs allowed for subrecipients). LIHEAP has sufficient funds to cover these expenses.

The additional amount of award was determined by apportioning the total received as a state, and placing some with subrecipients and some with the statewide provider.

Original Contract NTE (inclusive of assistance to households)	Total: \$69,300,831 LIHEAP: \$29,109,720 LIHWAP: \$40,191,111
Contract NTE Adjusted from Prior Amendments (inclusive of assistance to households)	\$77,141,694 LIHEAP: \$36,950,583 LIHWAP: No increase
Amount Paid to Date	Total: \$33,999,740 LIHEAP: \$29,059,436 LIHWAP: \$4,940,304
Amount remaining Unpaid	Total: \$43,141,954 LIHEAP: \$7,891,147 LIHWAP: \$35,250,807
Expected Amount to be Billed (including funds being directed to households)	May be up to contract maximum
New (Requested) Contract NTE (inclusive of assistance to households)	\$125,543,556 LIHEAP: \$85,352,445 LIHWAP: \$40,191,111

Upon approval of this item, amendments reflective of this action will be executed with each vendor as provided herein.