Boerne Public Facility Corporation

Agenda Memorandum

Agenda Item Number: 5 and 6

Agenda Date: 09-11-18

SUBJECT:

CONSIDERATION AND ACTION REGARDING A RESOLUTION AUTHORIZING BOERNE PUBLIC FACILITY CORPORATION HOUSING REVENUE BONDS (LIV AT BOERNE SENIOR APARTMENTS), SERIES 2018; AND OTHER MATTERS IN CONNECTION THEREWITH

CONSIDERATION AND ACTION REGARDING A RESOLUTION AUTHORIZING THE LIV AT BOERNE SENIOR APARTMENTS TRANSACTION, INCLUDING THE EXECUTION OF ALL DOCUMENTATION NECESSARY TO CARRY OUT THE TRANSACTION; AUTHORIZING THE LEASE OF LAND FOR THE TRANSACTION; AND AUTHORIZING THE ACQUISITION OF THE MEMBERSHIP INTEREST IN BPFC LIV BOERNE GP, LLC; AND AUTHORIZING THE FINANCING FOR SUCH TRANSACTION; AND AUTHORIZING BOERNE PUBLIC FACILITY CORPORATION TO SERVE AS A JOINT VENTURER IN THE GENERAL CONTRACTOR; AND OTHER MATTERS IN CONNECTION THEREWITH

SUMMARY:

Staff is requesting the approval of two agenda items to finance a 162-unit affordable senior housing project at 3 Shooting Club Lane to be known as LIV at Boerne Senior Apartments (the “Project”). This will be a tax credit Project with 120 units restricted to individuals whose income does not exceed sixty percent (60%) of the Boerne median area income ($56,040 for a family of 4). The rents for these units will be restricted to thirty percent (30%) of the sixty percent (60%) median income or $991 for a one bedroom unit and $1,183 for a two bedroom unit. The other 42 units will be market rate units renting at $1,350 and $1,850, respectively.

Federal law requires that in order to obtain these tax credits, the Project must be financed in part with tax exempt bonds. Accordingly, the first agenda item approves the issuance of up to $18,000,000 of tax exempt bonds for the Project. These bonds are only payable from Project revenues and not from any tax or revenue of the City. The bonds are 100% cash collateralized and will be rated in the highest rating category for this type of bond. These bonds will only be outstanding during the construction and lease up of the Project. The Project will be permanently financed with a HUD loan taken out at the same time as the bonds are issued. Each month, as construction progresses, there will be a draw on the HUD loan. The HUD loan draw will be deposited into a trust securing the Bonds and a like amount of Bond proceeds will be used to pay the contractor. In this way the Bonds are always 100% secured.

The Bonds are authorized to be issued under state law and will be approved by the Texas Attorney General. The principal documents associated with the Bonds are a Loan Agreement which loans the bond proceeds to LIV Boerne Hills LP, the owner of the Project; an Indenture of Trust with Wilmington Trust which controls the receipt of the HUD Loan proceeds and the expenditure of the

Bond proceeds; and a Regulatory Agreement which insures that the low income set-a-sides will be met.

The second Resolution authorizes the PFC to become the sole member of BPFC LIV GP, LLC, a Texas limited liability company, which will be the general partner of LIV Boerne Hills, LP, the tax credit partnership which will own the Project. The tax credit partnership will generate tax credits over the next ten (10) years which will be sold to AHP (Berkshire Hathaway's tax credit company) through their purchase of 99% of the partnership, as the investor limited partner. The Resolution also authorizes the PFC to acquire the land for the Project and to lease that land to the tax credit partnership for a 75 year period. The acquisition price of the land is paid with an upfront lease payment sufficient to buy the land. This structure enables the Project to receive a property tax exemption, which is necessary to enable the Project to serve lower income tenants. The Resolution also authorizes the PFC to joint venture with the contractor, NRP Group, to bring about a sales tax exemption for the Project. The principle documents authorized are the HUD Loan Documents, the Partnership Agreement, the Lease and the Joint Venture Agreement.

The PFC will receive a $170,000 issuer fee at closing, 40% of the developer fees and 45% of the cash flow from the Project. The PFC's 40% share of developer's fee through construction and the lease up of the Project (first 3 years) is expected to be approximately $1,000,000. Then they are expected to receive approximately $100,000 per year thereafter, depending on the cash flow from the Project.

We have attached a chart showing the structure of the partnership and a summary of the permanent financing for the Project.

RECOMMENDATION:

Staff recommends approval of the attached Resolutions.