

**AUSTIN AFFORDABLE  
PFC, INC.**

**BOARD OF DIRECTORS  
Annual Meeting**

**Thursday, April 20, 2023  
12:00 PM**

**HACA Central Office, 1124 S. Interstate Highway 35  
Austin, TX**

**PUBLIC NOTICE OF A MEETING  
TAKE NOTICE OF A BOARD OF DIRECTORS  
ANNUAL BOARD MEETING  
OF THE AUSTIN AFFORDABLE PFC, INC.**

**TO BE HELD AT  
HACA Central Office, 1124 S. Interstate Highway 35  
Austin, TX  
(512.477.4488)  
Thursday, April 20, 2023  
12:00 PM**

**CALL TO ORDER, ROLL CALL**

**CERTIFICATION OF QUORUM**

**Public Communication (Note: There will be a three-minute time limitation)**

**CONSENT AGENDA**

Items on the Consent Agenda may be removed at the request of any Commissioner and considered at another appropriate time on this agenda. Placement on the Consent Agenda does not limit the possibility of any presentation, discussion, or action at this meeting. Under no circumstances does the Consent Agenda alter any requirements under Chapter 551 of the Texas Government Code, Texas Open Meetings Act.

**CONSENT ITEMS**

1. Presentation, Discussion, and Possible Action regarding the Approval of the Board Minutes Summary for the Board Meeting held on February 16, 2023
2. Presentation, Discussion, and Possible Action regarding Resolution No. 00098: Approval to ratify all actions taken by the Board of Directors during FYE 2023, in order to resolve any irregularities which may have occurred regarding a quorum or vote by the Directors as reflected within the approved minutes and resolution

**ACTION ITEMS**

3. Presentation, Discussion, and Possible Action regarding Resolution No. 00099: Election of new Officers for the Austin Affordable PFC
4. Presentation, Discussion and Possible Action on Resolution No. 00100 authorizing the issuance, sale and delivery of multifamily housing revenue bonds (Pathways at Rosewood Courts East) Series 2023; authorizing the execution and delivery of documents and instruments necessary to carry out the financing of such multifamily residential rental development; and containing other provisions relating to the subject
5. Presentation, Discussion and Possible Action on Resolution No. 00101 authorizing the issuance, sale and delivery of Multifamily Housing Governmental Note (Estates at Norwood Apartments), Series 2023; approving the form and substance of and authorizing the execution and delivery of documents and instruments necessary to carry out the financing of such multifamily rental residential development; and containing other provisions relating to the subject
6. Presentation, Discussion and Possible Action on Resolution No. 00102 authorizing the issuance, sale and delivery of Multifamily Housing Governmental Note (Bridge at Loyola

Lofts), Series 2023; approving the form and substance of and authorizing the execution and delivery of documents and instruments necessary to carry out the financing of such multifamily rental residential development; and containing other provisions relating to the subject

7. Presentation, Discussion and Possible Action on Resolution No. 00103 authorizing the issuance, sale and delivery of Multifamily Housing Revenue Bonds (Bridge at Canyon View), Series 2023; authorizing the execution and delivery of documents and instruments necessary to carry out the financing of such multifamily residential rental development; and containing other provisions relating to the subject
8. Presentation, Discussion and Possible Action on Resolution No. 00104: resolution declaring intent to issue bonds to provide financing for a Multifamily Residential Rental Development for Persons of Low and Moderate Income (Parmer Crossing South Apartments); prescribing certain terms and conditions of such bonds; authorizing the filing of an application for allocation of private activity bonds with the Texas Bond Review Board; and containing other provisions relating to the subject

## **EXECUTIVE SESSION**

The Board may go into Executive Session (close its meeting to the public) Pursuant to:

- a. 551.071, Texas Gov't Code, consultations with Attorney regarding legal advice, pending or contemplated litigation; or a settlement offer;
- b. 551.072, Texas Gov't Code, discussion about the purchase, exchange, lease or value of real property;
- c. 551.074, Texas Gov't Code, discuss the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee.
- d. 551.087, Texas Gov't Code, discuss certain economic development negotiations

## **OPEN SESSION**

If there is an Executive Session, the Board will return to Open Session for discussion, consideration and possible action of matters discussed in Executive Session.

## **REPORTS**

The Board accepts the following reports:

- President's Report
- Other Staff Reports
- Commissioners' Reports/Questions to the Department Staff

## **ADJOURNMENT**

"Pursuant to 30.06, Penal Code, (trespass by holder of license with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not attend this meeting with a concealed handgun."

"Pursuant to 30.07, Penal Code (trespass by holder of license with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not attend this meeting with a handgun that is carried openly."

"En virtud del 30.06, Código Penal, (traspaso titular de licencia con una pistola), una persona bajo el subcapítulo H, capítulo 411, código de gobierno (Ley de licencia de arma o pistola), no se permiten en esta reunión con una arma o pistola.

"En virtud de 30.07, Código Penal (prevaricación por titular de la licencia con un arma o pistola abiertamente llevado), una persona bajo el subcapítulo H, capítulo 411, código de gobierno (Ley de licencia de arma o pistola), no se permiten en esta reunión con un arma o pistola que lleva abiertamente.

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\*The Housing Authority of the City of Austin (HACA) Board of Commissioners reserves the right to discuss and consider items out of order on the agenda on an as needed basis.

The Housing Authority of the City of Austin is committed to compliance with the Americans with Disability Act. Reasonable modifications and equal access to the communications will be provided upon request. Meeting locations are planned with wheelchair access. If requiring Sign Language Interpreters or alternative formats, please give notice at least 2 days (48 hours) before the meeting date. Please call Nidia Hiroms at HACA at 512.477.4488, for additional information; TTY users route through Relay Texas at 711. For more information on HACA, please contact Nidia Hiroms at 512.477.4488 x2104.

**AUSTIN AFFORDABLE PFC, INC.**

**BOARD ACTION REQUEST**

**ITEM NO. 1.**

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**MEETING DATE:** April 20, 2023

**STAFF CONTACT:** Ron Kowal, Vice President of Housing Development/Asset Mgmt

**ITEM TITLE:** Presentation, Discussion, and Possible Action regarding the Approval of the Board Minutes Summary for the Board Meeting held on February 16, 2023

**BUDGETED ITEM:** N/A

**TOTAL COST:** N/A

**ACTION**

The Board is being asked to review and approve the Board Minutes Summary for the Board Meeting held on February 16, 2023.

**ATTACHMENTS:**

- ▣ **021623 AAPFC Minutes Summary**

**AUSTIN AFFORDABLE PFC, INC.  
BOARD OF DIRECTORS  
REGULAR BOARD MEETING**

**February 16, 2023**

**SUMMARY OF MINUTES**

**AUSTIN AFFORDABLE PFC, INC. (HACA) BOARD OF DIRECTORS REGULAR BOARD MEETING NOTICE WAS POSTED FOR 5:00 PM ON THURSDAY, FEBRUARY 16, 2023, AND WAS HELD AT THE HACA CENTRAL OFFICE, 1124 S. IH 35, AUSTIN, TX AND VIRTUALLY**

**CALL TO ORDER, ROLL CALL, CERTIFICATION OF QUORUM**

**Chuck Bailey**, HACA Vice-Chairperson called the Board of Directors Regular Board Meeting of the Austin Affordable PFC, Inc., of February 16, 2023, to order at 5:10 pm. The meeting was held at the HACA Central Office, 1124 S. IH 35, Austin, TX and virtually.

Roll call certified a quorum was present on the call.

**MEMBERS PRESENT:**

Edwina Carrington, Chairperson  
Charles Bailey, Vice-Chairperson  
Mary Apostolou, 2<sup>nd</sup> Vice-Chairperson  
Dr. Tyra Duncan-Hall, Director  
Carl S. Richie, Jr., Director (arrived at 5:20 pm)

**MEMBER(S) ABSENT:**

**ALSO IN ATTENDANCE:**

Bill Walter, Coats Rose Law Firm

**STAFF PRESENT:**

Barbara Chen, Gloria Morgan, Jorge Sanchez, Keith Swenson, Kelly Crawford, Leilani Lim-Villegas, Lisa Garcia, Michael Gerber, Nidia Hiroms, Ron Kowal, Suzanne Schwertner, and Sylvia Blanco

**PUBLIC COMMUNICATION - (3 minute time limit)**

**NONE**

Public communication was opened during each item on the agenda. No one provided any communication during any of the items.

**CONSENT AGENDA**

**APPROVAL OF THE FOLLOWING ITEMS PRESENTED IN THE BOARD MATERIALS:**

**ITEM 1: Presentation, Discussion, and Possible Action regarding the Approval of the Board Minutes Summary for the Board Meeting held on December 7, 2022**

**Director Duncan-Hall** moved the Approval of the Board Minutes Summary for the Board Meeting held on December 7, 2022. **2<sup>nd</sup> Vice-Chairperson Apostolou** seconded the motion. The motion Passed (5-Ayes and 0-Nays).

**Director Richie left the room at 6:20 pm.**

**ITEM 2: Presentation, Discussion, and Possible Action of Resolution No. 00097 Declaring intent to issue Bonds to provide financing for a multifamily residential rental development for persons of low and moderate income (Kingswood); Prescribing certain terms and conditions of such Bonds; Authorizing the filing of an application for allocation of Private Activity Bonds with the Texas Bond Review Board; and containing other provisions relating to the subject**

Austin Affordable Housing Corporation was presented with an opportunity to partner with LDG Multifamily LLC on a 23.054 acre tract of land located at southeast corner of FM Road 812 and Burklund Farms Road, Austin, Texas 78617 in the Austin extraterritorial jurisdiction (ETJ). The project (Kingswood) will consist of 328 family apartment units serving tenants at or below 60% of median family income.

This property will benefit HACA and AAHC with deep affordability, a large number of family units and close proximity to TESLA and all the businesses that are building close to TESLA. Once built, we will name the property Bridge at Kingswood.

The development will use a mixture of 4% tax credits and bonds to finance the development with a total project cost of approximately \$100,000,000. The planned development will consist of 48 one bedroom and one bath units, 132 two bedroom

and two bath units, 132 three bedroom and two bath units, and 16 four bedroom and two bath units. All units will be marketed to HACA's Housing Choice Voucher residents. HACA, through its Public Facility Corporation is requesting the approval of an issuance of tax-exempt bonds in an amount not to exceed \$50,000,000. This approval will begin the initial process to submit applications for tax credits and bond approval. Staff will be presenting back to the Board in future months on the progress and specifically any and all agreements and approvals.

**2<sup>nd</sup> Vice-Chairperson Apostolou** moved the Approval of Resolution No. 00097 Declaring intent to issue Bonds to provide financing for a multifamily residential rental development for persons of low and moderate income (Kingswood); Prescribing certain terms and conditions of such Bonds; Authorizing the filing of an application for allocation of Private Activity Bonds with the Texas Bond Review Board; and containing other provisions relating to the subject in an amount not to exceed \$50,000,000. **Director Duncan-Hall** seconded the motion. The motion Passed (4-Ayes and 0-Nays).

#### **EXECUTIVE SESSION**

The Board did not recess into Executive Session.

**2<sup>nd</sup> Vice-Chairperson Apostolou** moved to adjourn the meeting. **Director Duncan-Hall** seconded the motion. The motion Passed (4-Ayes and 0-Nays).

The meeting adjourned at 6:21 pm.

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**Michael G. Gerber, Secretary**

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**Edwina Carrington, Chairperson**

**AUSTIN AFFORDABLE PFC, INC.**

**BOARD ACTION REQUEST**

**RESOLUTION NO. 00098**

**ITEM NO. 2.**

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**MEETING DATE:** April 20, 2023

**STAFF CONTACT:** Michael Gerber, President & CEO

**ITEM TITLE:** Presentation, Discussion, and Possible Action regarding Resolution No. 00098: Approval to ratify all actions taken by the Board of Directors during FYE 2023, in order to resolve any irregularities which may have occurred regarding a quorum or vote by the Directors as reflected within the approved minutes and resolution

**BUDGETED ITEM:** N/A

**TOTAL COST:** N/A

**ACTION**

The Board is being asked to approve Resolution No. 00098: which ratifies all actions taken by the Board of Directors during the 2022-2023 Fiscal Year, in order to resolve any irregularities which may have occurred regarding a quorum or vote by the Directors as reflected within the approved minutes and resolutions.

**SUMMARY**

***Background:***

Upon past advisement of legal counsel, Resolution No. 00098 was drafted to ensure all actions taken by the Board during FYE 2023 be ratified, thus ensuring resolution of any irregularities during the voting process taken by the Directors. This is an action that will be presented for board action on an annual basis.

***Process:***

This Resolution resolves any irregularities in the voting process found in the Board meeting minutes and/or resolutions, and all actions taken during the 2022-2023 Fiscal Year by the Board of Directors are fully enforceable.

***Staff Recommendation:***

Staff recommends Board approval of Resolution No. 00098 to ratify all actions taken by the Board of Directors during the 2022-2023 Fiscal Year.



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**RESOLUTION NO. 00098**

**APPROVAL TO RATIFY ALL ACTIONS TAKEN BY THE BOARD OF DIRECTORS DURING FYE 2023, IN ORDER TO RESOLVE ANY IRREGULARITIES WHICH MAY HAVE OCCURRED REGARDING A QUORUM OR VOTE BY THE DIRECTORS AS REFLECTED WITHIN THE APPROVED MINUTES AND RESOLUTIONS**

**WHEREAS**, in the event that there were any irregularities in any action or vote taken by Austin Affordable PFC, Inc. Board of Directors during the 2022-2023 Fiscal Year, the Austin Affordable PFC, Inc. desires to ratify and affirm all of the actions and votes taken by the Board of Directors regardless of the irregularity, as each action and vote taken represents the true intention of a quorum or more of AAPFC's Board of Directors.

**WHEREAS**, the purpose of this resolution is to give full legal force and effect to each action or vote of the Board of Directors taken during the 2022-23 Fiscal Year as if each action was taken by a quorum of the board without any irregularity, and therefore, every action taken by the Board of Directors during the 2022-23 Fiscal Year is fully enforceable.

**NOW, THEREFORE, BE IT RESOLVED**, the Austin Affordable PFC, Inc. Board of Directors hereby ratifies and affirms all actions and votes taken by the Board of Directors during 2022-2023 Fiscal Year.

**PASSED, APPROVED AND ADOPTED** this 20th day of April 2023.

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**Michael G. Gerber, Secretary**

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**Edwina Carrington, Chairperson**

**AUSTIN AFFORDABLE PFC, INC.**

**BOARD ACTION REQUEST**

**RESOLUTION NO. 00099**

**ITEM NO. 3.**

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**MEETING DATE:** April 20, 2023

**STAFF CONTACT:** Ron Kowal, Vice President of Housing Development/Asset Mgmt

**ITEM TITLE:** Presentation, Discussion, and Possible Action regarding Resolution No. 00099:  
Election of new Officers for the Austin Affordable PFC

**BUDGETED ITEM:** N/A

**TOTAL COST:** N/A

**ACTION**

Motion to approve Resolution No. 00099 approving new board officers for positions of Chairperson, Vice-Chairperson and 2nd Vice-Chairperson.

**SUMMARY**

***Background:***

With the current officer terms expiring at the end of April 2023, and new terms beginning May 1, 2023, it is necessary for the Board to elect new officers for the Austin Affordable PFC Board of Directors. A list of current officers is attached.

**ATTACHMENTS:**

- ❑ **AAPFC Current Officers and Ballot**
- ❑ **AAPFC Bylaws**
- ❑ **AAPFC Certificate of Formation**

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**RESOLUTION NO. 00099**

**ELECTION OF THE OFFICERS OF THE AUSTIN AFFORDABLE PFC BOARD OF DIRECTORS**

**WHEREAS**, the Austin Affordable PFC has established Certificate of Formation and Bylaws for its operations;

**WHEREAS**, Article 2 Board of Directors, Section 2.1, states that the affairs of the Corporation shall consist of the members of the Board of Commissioners of the Authority. The number of directors may be changed by amendment to these Bylaws, but such number must be at least three (3).

**WHEREAS**, the Certificate of Formation, Article 9, Board of Directors states that the Board of Directors shall automatically change each time the Commissioners of the Authority change. Any Director shall cease to be a director at the time he or she ceases to be a Commissioner of the Authority. A majority of the entire membership of the Board of Directors, including any vacancies, is a quorum.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Directors for the Austin Affordable PFC approves new board officers for the positions of the Chairperson, Vice-Chairperson and 2nd Vice-Chairperson.

Chairperson \_\_\_\_\_

Vice-Chairperson \_\_\_\_\_

2nd Vice-Chairperson \_\_\_\_\_

**PASSED, APPROVED, AND ADOPTED** this 20th day of April, 2023.

\_\_\_\_\_  
**Michael G. Gerber, Secretary**

\_\_\_\_\_  
**Chairperson**

**Austin Affordable PFC, Inc.**  
**Board of Directors**

**Election of Officers**  
**April 20, 2023**

**Current Officers**

Chairperson: Tyra Duncan-Hall  
Vice-Chairperson: Mary Apostolou  
2<sup>nd</sup> Vice-Chairperson: Edwina Carrington

Chairperson: \_\_\_\_\_  
Nominated by: \_\_\_\_\_  
Seconded by: \_\_\_\_\_

Vice-Chair: \_\_\_\_\_  
Nominated by: \_\_\_\_\_  
Seconded by: \_\_\_\_\_

2<sup>nd</sup> Vice-Chair: \_\_\_\_\_  
Nominated by: \_\_\_\_\_  
Seconded by: \_\_\_\_\_

**APPROVED:**

Chairperson: \_\_\_\_\_  
Vice-Chairperson: \_\_\_\_\_  
2<sup>nd</sup> Vice-Chairperson: \_\_\_\_\_

**BYLAWS OF  
AUSTIN AFFORDABLE PFC, INC.  
PUBLIC FACILITY CORPORATION**

**ARTICLE I  
PURPOSE AND POWERS**

Section 1.1 Purpose. Austin Affordable PFC, Inc. (the “Corporation”) is incorporated for the purposes set forth in Article Four of its Certificate of Formation, the same to be accomplished on behalf of the Housing Authority of the City of Austin (the “Authority”) as its duly constituted authority and instrumentality in accordance with the Public Facility Corporation Act, as amended, Chapter 303, Texas Government code (the “Act”), and other applicable laws.

Section 1.2 Powers. In the fulfillment of its corporate purpose, the Corporation shall be governed by the Act, and shall have all the powers set forth and conferred in its Certificate of Formation, in the Act, and in other applicable law, subject to the limitations prescribed therein and herein and to the provisions thereof and hereof.

Section 1.3 Nonprofit Corporation. The Corporation shall be a public, nonprofit corporation and no part of its set earnings remaining after payment of its bonds and expenses shall inure to the benefit of any person other than the Authority.

**ARTICLE II  
BOARD OF DIRECTORS**

Section 2.1 Powers, Number and Term of Office.

(a) The property and affairs of the Corporation shall be managed and controlled by a board of directors (the “Board”) subject to the restrictions imposed by law, the Act, the Certificate of Formation, and these Bylaws, the Board shall exercise all of the powers of the Corporation.

(b) The Board shall consist of the members of the Board of Commissioners of the Authority. The number of directors may be changed by amendment to these Bylaws, but such number must be at least three (3).

(c) The directors constituting the initial Board shall be those directors named in the Certificate of Formation. Successor directors shall have the qualifications and shall be appointed to the terms set forth in the Certificate of Formation.

(d) Any director may be removed from office by the Authority under the same terms, conditions and procedures as Commissioners of the Authority.

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## ARTICLE SIX MEMBERS

The Corporation has no members and is a non-stock corporation.

## ARTICLE SEVEN AMENDMENTS

This Certificate of Formation may be amended at any time as provided in the Act, to make any changes and add any provisions that might have been included in the Certificate of Formation in the first instance. Any amendment may be accomplished in either of the following manners:

(a) The members of the board of directors of the Corporation shall file with the Authority a written application requesting approval of the amendments to the Certificate of Formation, specifying in such application the amendments proposed to be made. The Authority shall consider such application and, if it shall, by appropriate resolution, duly find and determine that it is advisable that the proposed amendments be made, it shall approve the form of the proposed amendments. The board of directors of the Corporation may then amend the Certificate of Formation by adopting such amendment at a meeting of the board of directors. The Corporation's president or vice president and the secretary of the Authority shall execute the amendment on behalf of the Corporation. The amendment and a certified copy of the resolution of the Authority shall be delivered to the Secretary of State as required by the Act; or

(b) The Authority may, at its sole discretion, and at any time, amend this Certificate of Formation and alter or change the structure, name, organization, programs or activities of the Corporation, or terminate or dissolve the Corporation (subject to the provisions of the Act) by resolution as otherwise provided in the Act.

## ARTICLE EIGHT ADDRESS

The street address of the initial registered office of the Corporation is 1124 S IH 35, Austin, TX 78704, and the name of its initial registered agent at that address is Michael Gerber.

## ARTICLE NINE BOARD OF DIRECTORS

(a) The affairs of the Corporation shall be managed by a board of directors, which shall be composed of the Commissioners of the Authority. The board of directors shall automatically change each time the Commissioners of the Authority change. Any director shall cease to be a director at the time he or she ceases to be a Commissioner of the Authority. A majority of the entire membership of the board of directors, including any vacancies, is a quorum.

**AUSTIN AFFORDABLE PFC, INC.**

**BOARD ACTION REQUEST**

**RESOLUTION NO. 00100**

**ITEM NO. 4.**

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**MEETING DATE:** April 20, 2023

**STAFF CONTACT:** Ann Gass, Director of Strategic Housing Initiatives

**ITEM TITLE:** Presentation, Discussion and Possible Action on Resolution No. 00100 authorizing the issuance, sale and delivery of multifamily housing revenue bonds (Pathways at Rosewood Courts East) Series 2023; authorizing the execution and delivery of documents and instruments necessary to carry out the financing of such multifamily residential rental development; and containing other provisions relating to the subject

**BUDGETED ITEM:** N/A

**TOTAL COST:** N/A

**ACTION**

The Board is being asked to approve Resolution No. 00100 authorizing the issuance, sale and delivery of Multifamily Housing Revenue Bonds (Pathways at Rosewood Courts East) Series 2023 and authorizing the execution and delivery of documents and instruments necessary to carry out the financing of such multifamily residential rental development; and containing other provisions relating to the subject.

**SUMMARY**

***Background:***

In April 2021, the board adopted an initial inducement resolution for \$30,000,000 for the redevelopment of Rosewood Courts. A second inducement resolution for \$5,000,000 was adopted in September 2022 to allow for a supplemental issuance of bonds for Rosewood.

***Process:***

Additional bonds will provide a cushion to ensure that the transaction meets the “50% Test”. The IRS Code provides that if 50% or more of the aggregate basis of any building and the land on which the building is located is financed by tax-exempt volume cap bonds, then no allocation is needed from the state agency. If the project fails to meet the 50% test, only the portion of the eligible basis financed by the tax-exempt bonds will qualify for 4% tax credits.

***Staff Recommendation:***

Staff recommends approval of the resolution.

**ATTACHMENTS:** ▢ **Exhibit A**

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**RESOLUTION NO. 00100**

**RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING REVENUE BONDS (PATHWAYS AT ROSEWOOD COURTS EAST) SERIES 2023; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS NECESSARY TO CARRY OUT THE FINANCING OF SUCH MULTIFAMILY RESIDENTIAL RENTAL DEVELOPMENT; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT**

**WHEREAS**, Austin Affordable PFC, Inc. (the “Issuer”) has been duly created and organized pursuant to and in accordance with the provisions of the Public Facility Corporation Act, Chapter 303, Texas Local Government Code, as amended (the “Act”), for the purpose of assisting the Housing Authority of the City of Austin (the “Sponsor”) in financing, refinancing or providing public facilities; and

**WHEREAS**, the Act authorizes the Issuer: (a) to make loans to any person to provide financing for rental residential developments located within the corporate limits of the City of Austin, Texas (the “City”), and intended to be occupied substantially (at least 90 percent) by persons of low and moderate income, as determined by the Issuer; (b) to issue its revenue bonds for the purpose of obtaining moneys to make such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Issuer, including the revenues and receipts to be received by the Issuer from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Issuer in order to secure the payment of the principal or redemption price of and interest on such bonds; and

**WHEREAS**, the Board of Directors of the Issuer (the “Board”) has determined to authorize the issuance, sale and delivery of its Multifamily Housing Revenue Bonds (Pathways at Rosewood Courts East) Series 2023 (the “Bonds”), pursuant to and in accordance with the terms of a Trust Indenture, dated on or about of April 1, 2023 (the “Indenture”), between the Issuer and BOKF, NA, as trustee (the “Trustee”), for the purpose of lending the proceeds thereof to Pathways at Rosewood Courts East, LP, a Texas limited partnership (the “Borrower”), to provide financing for the construction of a multifamily housing residential rental development known as Pathways at Rosewood Courts East (and also known as Pathways at Rosewood Courts), located within the City of Austin at approximately 2001 Rosewood Avenue, Austin, Texas 78702 and described more fully on Exhibit A attached hereto (the “Project”), all in accordance with the Constitution and laws of the State of Texas; and

**WHEREAS**, the Board, by resolution adopted on September 22, 2022, declared its intent to issue its revenue bonds to provide financing for the Project; and

**WHEREAS**, in order to assist in carrying out the acquisition, construction and equipping of the Project, the Board has determined that the Issuer shall enter into a Financing Agreement (the “Agreement”), with the Borrower, pursuant to which (i) the Issuer will agree to make a mortgage loan funded with the proceeds of the Bonds (the “Mortgage Loan”) to the Borrower to enable the Borrower to finance costs of the acquisition, construction and equipping of the Project and related costs, and (ii) the Borrower will execute and deliver a promissory note (the “Note”) in an original principal amount equal to the original aggregate principal amount of the Bonds, and providing for payment of interest on such principal amount equal to the interest on the Bonds and to pay other costs described in the Agreement; and



**WHEREAS**, in order to assure compliance with Section 142(d) of the Internal Revenue Code of 1986, as amended (the “Code”), the Issuer will require the Borrower to enter into an Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants, dated on or about April 1, 2023 (the “Regulatory Agreement”) with respect to the Project; and

**WHEREAS**, the Board desires to ratify certain other actions heretofore taken with respect to the Bonds; and

**WHEREAS**, the Issuer desires to authorize the Trustee to invest and reinvest the proceeds of the Bonds and all other funds received and held under the Agreement; and

**WHEREAS**, Section 147(f) of the Code requires that the Bonds be approved by the “applicable elected representative” (the “AER”) after a public hearing following reasonable public notice; and

**WHEREAS**, with respect to bonds issued by the Issuer, the AER is the Mayor of the City; and

**WHEREAS**, notice of a public hearing with respect to the Bonds and the Project held by the Issuer on December 22, 2022, was published no less than 7 days before such date in a newspaper of general circulation available to residents within the City; and

**WHEREAS**, the Board held such public hearing on the date and at the time and place set out in such published notice, and conducted such hearing in a manner that provided a reasonable opportunity for persons with differing views on the issuance of the Bonds and the Project to be heard; and

**WHEREAS**, the Board has determined to provide financing for the Project in accordance with the Agreement, the Bonds, the Regulatory Agreement (all documents in such form as approved by the officers of the Issuer and its advisors), by authorizing the issuance of the Bonds, the execution and delivery or acceptance, as appropriate, of such documents and the taking of such other actions as may be necessary or convenient;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF AUSTIN AFFORDABLE PFC, INC. THAT:**

Section 1.--Public Hearing. The Board hereby finds, determines, recites and declares that a public hearing with respect to the Bonds and the Project was held on December 22, 2022; that notice of such public hearing was published no less than 7 days before such date in a newspaper of general circulation available to residents within the City; that such notice included the date, time and place of the public hearing, the location, general nature and the initial owner of the Project and the maximum aggregate principal amount of the Bonds; and that all comments from interested persons were taken at such public hearing and were provided to the AER.

Section 2.--Issuance, Execution, Sale and Delivery of the Bonds. The issuance of the Bonds is hereby authorized, according to the conditions set forth herein and in the Agreement, and upon execution and delivery of the Agreement, the President or Vice President and the Secretary of the Issuer are each hereby authorized to execute, attest and affix the Issuer’s seal (if any) to the Bonds and to deliver the Bonds to the Attorney General of the State of Texas for approval, the Comptroller of Public Accounts of the State of Texas for registration and the Trustee for authentication (to the extent required in the Indenture), and thereafter to sell the Bonds to the purchaser thereof as provided in the Indenture and deliver the Bonds as provided in the Indenture.

Section 3.--Interest Rate, Principal Amount, Maturity and Price. The officers of the Issuer are hereby authorized to fix and determine the interest rate, principal amount, maturity and price of the Bonds, all of which determinations shall be conclusively evidenced by the execution and delivery by such officers of the Indenture and the Bonds; provided, however, that: (i) contained in the Indenture, the interest on the Bonds shall initially

not exceed 10%; (ii) the aggregate principal amount of the Bonds shall not exceed \$5,000,000; (iii) the final maturity of the Bonds shall occur not later than April 1, 2063; and (iv) the price at which the Bonds are sold shall not exceed the principal amount thereof.

Section 4.--Approval, Execution and Delivery of the Indenture and the Agreement. The officers of the Issuer are each hereby authorized to execute the Indenture and the Agreement in form and substance approved by such officers, with such changes or additions thereto as may be approved by any officer of the Issuer (upon advice of bond counsel to the Issuer), as evidenced by the execution and delivery of the Indenture and the Agreement.

Section 5.--Approval, Execution and Delivery of the Regulatory Agreement. The officers of the Issuer are each hereby authorized to execute the Regulatory Agreement in form and substance approved by such officers, with such changes or additions thereto as may be approved by any officer of the Issuer (upon advice of bond counsel to the Issuer), as evidenced by their execution and delivery and to deliver the Regulatory Agreement.

Section 6.--Determination of Moderate Income. The Board has heretofore determined and hereby confirms, in accordance with the Act, for purposes of the Project, until revised by the Board, that the maximum amount constituting moderate income shall be 80% of area median income, as established by the Issuer.

Section 7.--Execution and Delivery of Other Documents. The officers of the Issuer are each hereby authorized to execute, attest and affix the Issuer's seal (if any) to and deliver such other agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, 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 8.--Power to Revise Form of Documents. Notwithstanding any other provision of this Resolution, the officers of the Issuer are each hereby authorized to make or approve such revisions in the form of the documents hereby approved, in the opinion of Bond Counsel, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution; and approval of such changes by the Issuer shall be indicated by such officers' execution of the documents.

Section 9.--Incorporation of Preamble. The recitals in the preamble of this Resolution are true, correct and complete and each and all of such recitals and the findings therein are hereby incorporated by reference to the same extent as if set forth herein in full.

Section 10.--Submission to the Attorney General of Texas. The Board hereby authorizes the submission by Tax Counsel to the Attorney General of Texas, for approval as required under Chapter 1202, Texas Government Code, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 11.--Purposes of Resolution. The Board has expressly determined and hereby confirms that the issuance of the Bonds to assist in the financing of the Project will promote the public purposes set forth in Chapter 392 and Section 394.002 of the Texas Local Government Code and will accomplish a valid public purpose of the Issuer by assisting persons of low and moderate income in the City to obtain decent, safe and sanitary housing at affordable prices, thereby helping to relieve unemployment, to preserve and increase the tax base of the City, and to reduce public expenditures for crime prevention and control, public health, welfare and safety and for other valid public purposes.

Section 12.--Limited Obligations. The Bonds and the interest thereon shall be limited obligations of the Issuer payable solely from the revenues, funds and assets pledged under the Agreement to secure payment of the Bonds and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Issuer.

Section 13.--Ratification of Certain Prior Actions. All other prior actions taken for or on behalf of the Issuer in connection with the Bonds are hereby ratified, confirmed and approved.

Section 14.--Limited Obligations. The Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or a pledge or loan of the faith or credit or taxing power, within the meaning of any constitutional or statutory provision whatsoever, of the United States of America or any agency or instrumentality thereof, the State of Texas, the City, the Sponsor or any other political subdivision or governmental unit.

Section 15.--Approval Conditions. The actions and obligations authorized in this Resolution shall be subject to and conditioned upon receipt by the Issuer on the date of delivery of the Bonds of the appropriate opinions of tax counsel with respect to the Bonds.

Section 16.--Information Return for Tax Exempt Private Activity Bonds. The Board further directs that an officer of the Issuer submit or cause to be submitted to the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds is issued, a statement containing the information required by Section 149(e) of the Code.

Section 17.--Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

**PASSED, APPROVED AND ADOPTED** this 20th day of April, 2023.

ATTEST:

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**Edwina Carrington, Chairperson**

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**Michael G. Gerber, Secretary**

## Exhibit A

### PROJECT AND BORROWER

Borrower: Pathways at Rosewood Courts East, LP, a Texas limited partnership

Project: 184-unit multifamily residential rental development to be known as Pathways at Rosewood Courts East

The Project will be located at approximately 2001 Rosewood Avenue, Austin, Texas 78702. It will consist of 11 buildings with approximately 161,069 net rentable square feet and an average unit size of approximately 875 square feet. The unit mix will consist of:

<u>94</u>	one-bedroom units
<u>64</u>	two-bedroom units
<u>17</u>	three-bedroom units
<u>9</u>	four-bedroom units
184	Total Units

**AUSTIN AFFORDABLE PFC, INC.**

**BOARD ACTION REQUEST**

**RESOLUTION NO. 00101**

**ITEM NO. 5.**

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**MEETING DATE:** April 20, 2023

**STAFF CONTACT:** Suzanne Schwertner, Director of Development

**ITEM TITLE:** Presentation, Discussion and Possible Action on Resolution No. 00101 authorizing the issuance, sale and delivery of Multifamily Housing Governmental Note (Estates at Norwood Apartments), Series 2023; approving the form and substance of and authorizing the execution and delivery of documents and instruments necessary to carry out the financing of such multifamily rental residential development; and containing other provisions relating to the subject

**BUDGETED ITEM:** N/A

**TOTAL COST:** N/A

**ACTION**

The Board is being asked to approve Resolution No. 00101 authorizing the issuance, sale and delivery of Multifamily Housing Governmental Note (Estates at Norwood Apartments), Series 2023; approving the form and substance of and authorizing the execution and delivery of documents and instruments necessary to carry out the financing of such multifamily rental residential development; and containing other provisions relating to the subject.

**SUMMARY**

***Background:***

Austin Affordable PFC, Inc. issued bonds for the Estates at Norwood (located at 916 Norwood Park, Austin 78753) in December 2019 and construction started soon thereafter. The property includes 228 units affordable to families earning 60% AMI and below with family friendly amenities. The project is financed using the 4% tax credit/tax-exempt bond structure. Unit breakdown: 36 one bedroom/one bath, 108 two bedroom/ two bath and 84 three bedroom/two bath units. All units will be marketed to HACA's Housing Choice Voucher residents.

***Process:***

The year after Estates at Norwood closed, Congress passed legislation that raised the floor of the 4% tax credits to a true 4%. Up until 2020, the rate floated and was as low as 3.2%. The tax credits received on this development were based on a tax credit rate of less than 4%.

With TDHCA's approval, we are able to request a supplemental issuance of tax credits to bring us up to the current 4% floor. Under this program, the tax credits go hand and hand with the tax-exempt bonds. In order

to obtain the supplemental credits, we are required to obtain additional tax-exempt bonds.

Austin Affordable PFC, Inc. requested and was granted an inducement for a supplemental issuance of tax-exempt bonds by the Board in December 2022. Soon thereafter, the bond issuance was awarded. Staff is asking for approval of final resolutions to close the supplemental issuance in the amount of \$5,000,000. This will also come with an additional tax credit award in the amount of \$4,832,630.

This property benefits HACA/AAHC with units that are deeply affordable and located in north central Austin around retail and office spaces.

Unit Breakdown:   36 – one bedroom/one bath  
                          108 – two bedroom/two bath  
                          84 – three bedroom/two bath

***Staff Recommendation:***

Staff recommends approval of Resolution No. 00101.

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**RESOLUTION NO. 00101**

**RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING GOVERNMENTAL NOTE (ESTATES AT NORWOOD APARTMENTS) SERIES 2023; APPROVING THE FORM AND SUBSTANCE OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS NECESSARY TO CARRY OUT THE FINANCING OF SUCH MULTIFAMILY RENTAL RESIDENTIAL DEVELOPMENT; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT**

**WHEREAS**, Austin Affordable PFC, Inc. (the “Governmental Lender”) has been duly created and organized pursuant to and in accordance with the provisions of the Public Facility Corporation Act, Chapter 303, Texas Local Government Code, as amended (the “Act”), for the purpose of assisting the Housing Authority of the City of Austin (the “Sponsor”) in financing, refinancing or providing public facilities; and

**WHEREAS**, the Act authorizes the Governmental Lender: (a) to make loans to any person to provide financing for rental residential developments located within the corporate limits of the City of Austin, Texas (the “City”), and intended to be occupied substantially (at least 90 percent) by persons of low and moderate income, as determined by the Governmental Lender; (b) to borrow funds for the purpose of obtaining moneys to make such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with any such borrowing by the Governmental Lender; and (c) to pledge all or any part of the revenues, receipts or resources of the Governmental Lender, including the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the repayment of any such borrowing by the Governmental Lender; and

**WHEREAS**, the Board of Directors of the Governmental Lender (the “Board”) has determined to authorize the issuance, sale and delivery of its Multifamily Housing Governmental Note (Estates at Norwood Apartments) Series 2023 (the “Governmental Note”), pursuant to and in accordance with the terms of a Funding Loan Agreement, dated on or about May 1, 2023 (the “Funding Loan Agreement”), between the Governmental Lender, BOKF, NA, as fiscal agent (the “Fiscal Agent”), and Citibank, N.A., as initial funding lender (the “Funding Lender”), for the purpose of lending the proceeds thereof to LDG Estates at Norwood, LP, a Texas limited partnership (the “Borrower”), to provide financing for the construction and equipping of a multifamily rental residential development known as the Estates at Norwood located within the City of Austin at approximately 916 and 918 Norwood Park Boulevard, Austin, Texas 78753, described more fully on Exhibit A attached hereto (the “Project”), all in accordance with the Constitution and laws of the State of Texas; and

**WHEREAS**, the Board, by resolution adopted on December 7, 2022, declared its intent to provide financing for the Project; and

**WHEREAS**, in order to assist in carrying out such construction and equipping of the Project, the Board has determined that the Governmental Lender shall enter into a Borrower Loan Agreement dated on or about May 1, 2023 (the “Borrower Loan Agreement”), between the Governmental Lender and the Borrower, pursuant to which (i) the Governmental Lender will agree to make a mortgage loan funded with the proceeds of the Governmental Note (the “Mortgage Loan”) to the Borrower to enable the Borrower to finance the cost of construction and equipping of the Project and related costs, and (ii) the Borrower will execute and deliver to the Governmental Lender a promissory note (the “Multifamily Note”) in an original aggregate principal amount equal to the original aggregate principal amount of the Governmental Note, and providing for payment of interest on such principal amount equal to the interest on the Governmental Note and to pay other costs described in the Borrower Loan Agreement; and

**WHEREAS**, in order to assure compliance with Section 142(d) of the Internal Revenue Code of 1986, as amended (the “Code”), the Governmental Lender will require the Borrower to enter into an Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants dated as of May 1, 2023 (the “Regulatory Agreement”) with respect to the Project; and

**WHEREAS**, it is anticipated that the Multifamily Note will be secured by a Leasehold Deed of Trust (with Security Agreement, Assignment of Rents and Fixture Filing) (the “Mortgage”) from the Borrower for the benefit of the Governmental Lender; and

**WHEREAS**, the Governmental Lender’s rights (except for certain reserved rights) under the Mortgage Loan, including the Multifamily Note and the Mortgage, will be assigned to the Fiscal Agent, as its interests may appear, pursuant to an Assignment of Deed of Trust and Loan Documents (the “Assignment”) between the Governmental Lender and the Fiscal Agent and acknowledged, accepted and agreed to by the Borrower; and

**WHEREAS**, the Board desires to ratify certain other actions heretofore taken with respect to the Governmental Note; and

**WHEREAS**, the Governmental Lender desires to authorize the Fiscal Agent to invest and reinvest the proceeds of the Governmental Note and all other funds received and held under the Funding Loan Agreement; and

**WHEREAS**, Section 147(f) of the Code requires that the Governmental Note be approved by the “applicable elected representative” (the “AER”) after a public hearing following reasonable public notice; and

**WHEREAS**, with respect to notes issued by the Governmental Lender, the AER is the Mayor of the City; and

**WHEREAS**, notice of a public hearing with respect to the Governmental Note and the Project held by the Governmental Lender on December 22, 2022, was published no less than 7 days before such date in a newspaper of general circulation available to residents within the City; and

**WHEREAS**, the Board held such public hearing on the date and at the time and place set out in such published notice, and conducted such hearing in a manner that provided a reasonable opportunity for persons with differing views on the issuance of the Governmental Note and the Project to be heard; and

**WHEREAS**, the Board and its advisors have examined proposed forms of the Funding Loan Agreement, the Borrower Loan Agreement, the Regulatory Agreement, the Multifamily Note, the Mortgage, and the Assignment, and have found the form and substance of such documents to be satisfactory and proper; and have determined to provide financing for the Project in accordance with such documents by authorizing the issuance of the Governmental Note, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient;

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF GOVERNMENTAL LENDER THAT:**

Section 1.--Public Hearing. The Board hereby finds, determines, recites and declares that a public hearing with respect to the Governmental Note and the Project was held on December 22, 2022; that notice of such public hearing was published no less than 7 days before such date in a newspaper of general circulation available to residents within the City; that such notice included the date, time and place of the public hearing, the location, general nature and the initial owner of the Project and the maximum aggregate principal amount of the Governmental Note; and that all comments from interested persons were taken at such public hearing and were provided to the AER.

Section 2.--Issuance, Execution, Sale and Delivery of the Governmental Note. The issuance of the Governmental Note is hereby authorized, according to the conditions set forth herein and in the Funding Loan Agreement, and that, upon execution and delivery of the Funding Loan Agreement, the President or any Vice President or Secretary of the Governmental Lender each are authorized hereby to execute, attest and affix the Governmental Lender’s seal to the Governmental Note (if any) and to deliver the Governmental Note to the Attorney General of the State of Texas for approval, the Comptroller of Public Accounts of the State of Texas for registration and to the Fiscal Agent for authentication (to the extent required in the Funding Loan Agreement), and thereafter to sell the Governmental Note to the initial funding thereof and deliver the Governmental Note as provided in the Funding Loan Agreement.

Section 3.--Interest Rate, Principal Amount, Maturity and Price. The officers of the Governmental Lender are hereby authorized to fix and determine the interest rate, principal amount, maturity and price of the Governmental Note, all of which determinations shall be conclusively evidenced by the execution and delivery by such officers of the Funding Loan Agreement; provided, however, that: (a) the interest rate on each Governmental Note shall not exceed 10% per annum, subject to adjustment as provided in the



Funding Loan Agreement; provided that, in no event shall the interest rate on the Governmental Note (including any default interest rate) exceed the maximum interest rate permitted by applicable law; (b) the aggregate principal amount of the Governmental Note shall not exceed \$6,000,000; and (c) the final maturity of the Governmental Note shall occur not later than May 1, 2063.

Section 4.--Approval, Execution and Delivery of the Funding Loan Agreement. The form and substance of the Funding Loan Agreement are hereby approved; and that the President or any Vice President or the Secretary of the Governmental Lender are each hereby authorized to execute and attest to the Funding Loan Agreement and to deliver the Funding Loan Agreement to the Fiscal Agent. The Fiscal Agent is authorized to invest the moneys held under the Funding Loan Agreement as provided therein.

Section 5.--Approval, Execution and Delivery of the Borrower Loan Agreement. The form and substance of the Borrower Loan Agreement are hereby approved; and that the officers of the Governmental Lender are each hereby authorized to execute, attest and affix the Governmental Lender's seal (if any) to the Borrower Loan Agreement and to deliver the Borrower Loan Agreement to the Borrower.

Section 6.--Approval, Execution and Delivery of the Regulatory Agreement. The form and substance of the Regulatory Agreement are hereby approved; and that the officers of the Governmental Lender are each hereby authorized to execute, attest and affix the Governmental Lender's seal (if any) to the Regulatory Agreement and to deliver the Regulatory Agreement to the Borrower and the Fiscal Agent.

Section 7.--Determination of Moderate Income. The Board has heretofore determined and hereby confirms, in accordance with the Act, for purposes of the Project, until revised by the Board, that the maximum amount constituting moderate income shall be 80% of area median income, as established by the Governmental Lender.

Section 8.--Acceptance of the Mortgage and the Multifamily Note. That the Mortgage and the Multifamily Note are hereby accepted by the Governmental Lender; and that the officers of the Governmental Lender are each hereby authorized to endorse the Multifamily Note to the order of the Fiscal Agent, without recourse.

Section 9.--Execution and Delivery of Other Documents. The officers of the Governmental Lender are each hereby authorized to execute, attest and affix the Governmental Lender's seal (if any) to and deliver such other agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, written requests and other papers, including the Assignment, 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 10.--Power to Revise Form of Documents. Notwithstanding any other provision of this Resolution, the officers of the Governmental Lender are each hereby authorized to make or approve such revisions to this Resolution and in the form of the documents hereby approved, in the opinion of Bond Counsel, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution; and approval of such changes by the Governmental Lender shall be indicated by such officers' execution of the documents.

Section 11.--Incorporation of Preamble. The recitals in the preamble of this Resolution are true, correct and complete and each and all of such recitals and the findings therein are hereby incorporated by reference to the same extent as if set forth herein in full.

Section 12.--Submission to the Attorney General of Texas. The Board hereby authorizes the submission by bond counsel to the Attorney General of Texas, for approval as required under Chapter 1202, Texas Government Code, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Governmental Note.

Section 13.--Purposes of Resolution. The Board has expressly determined and hereby confirms that the issuance of the Governmental Note to assist in the financing of the Project will promote the public purposes set forth in Chapter 392 and Section 394.002 of the Texas Local Government Code and will accomplish a valid public purpose of the Governmental Lender by assisting persons of low and moderate income in the City to obtain decent, safe and sanitary housing at affordable prices.

Section 14.--Limited Obligations. The Governmental Note and the interest thereon shall be limited obligations of the Governmental Lender payable solely from the revenues, funds and assets pledged under the Agreement to secure payment of the Governmental Note and under no circumstances shall the Governmental Note be payable from any other revenues, funds, assets or income of the Governmental Lender.

Section 15.--Ratification of Certain Prior Actions. All other prior actions taken for or on behalf of the Governmental Lender in connection with the Governmental Note are hereby ratified, confirmed and approved.

Section 16.--Limited Obligations. The Governmental Note shall not constitute an indebtedness, liability, general, special or moral obligation or a pledge or loan of the faith or credit or taxing power, within the meaning of any constitutional or statutory provision whatsoever, of the United States of America or any agency or instrumentality thereof, the State of Texas, the City of Austin, the Sponsor or any other political subdivision or governmental unit.

Section 17.--Approval Conditions. The actions and obligations authorized in this Resolution shall be subject to and conditioned upon receipt by the Governmental Lender on the date of delivery of the Governmental Note of the appropriate opinions of bond counsel with respect to the Governmental Note.

Section 18.--Information Return for Tax Exempt Private Activity Bonds. The Board further directs that an officer of the Governmental Lender submit or cause to be submitted to the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Governmental Note is issued, a statement containing the information required by Section 149(e) of the Code.

Section 19.--Reserved.

Section 20.--Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

*[End of Resolution.]*

**PASSED, APPROVED AND ADOPTED** this 20th day of April, 2023.

ATTEST:

\_\_\_\_\_  
EDWINA CARRINGTON, CHAIRPERSON

\_\_\_\_\_  
SECRETARY

**AUSTIN AFFORDABLE PFC, INC.**

**BOARD ACTION REQUEST**

**RESOLUTION NO. 00102**

**ITEM NO. 6.**

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**MEETING DATE:** April 20, 2023

**STAFF CONTACT:** Suzanne Schwertner, Director of Development

**ITEM TITLE:** Presentation, Discussion and Possible Action on Resolution No. 00102 authorizing the issuance, sale and delivery of Multifamily Housing Governmental Note (Bridge at Loyola Lofts), Series 2023; approving the form and substance of and authorizing the execution and delivery of documents and instruments necessary to carry out the financing of such multifamily rental residential development; and containing other provisions relating to the subject

**BUDGETED ITEM:** N/A

**TOTAL COST:** N/A

**ACTION**

The Board is being asked to approve Resolution No. 00102 authorizing the issuance, sale and delivery of Multifamily Housing Governmental Note (Bridge at Loyola Lofts), Series 2023; approving the form and substance of and authorizing the execution and delivery of documents and instruments necessary to carry out the financing of such multifamily rental residential development; and containing other provisions relating to the subject.

**SUMMARY**

***Background:***

Austin Affordable PFC, Inc. issued bonds for the Bridge at Loyola Lofts (located at 6400 Loyola Lane, Austin 78724) in December 2019 and construction started soon thereafter. The property includes 204 units affordable to families earning 60% AMI and below with family friendly amenities.

The project is financed using the 4% tax credit/tax-exempt bond structure. Unit breakdown: 19 one bedroom/one bath, 79 two bedroom/ two bath, 90 three bedroom/two bath and 16 four bedroom/two bath units. All units will be marketed to HACA's Housing Choice Voucher residents.

***Process:***

The year after Bridge at Loyola Lofts closed, Congress passed legislation which raised the floor of the 4% tax credits to a true 4%. Up until 2020, the rate floated and was as low as 3.2%. The tax credits received on this development were based on a tax credit rate of less than 4%.

With TDHCA's approval, we are able to request a supplemental issuance of tax credits to bring us up to the

current 4% floor. Under this program, the tax credits go hand and hand with the tax-exempt bonds. In order to obtain the supplemental credits, we are required to obtain additional tax-exempt bonds.

Austin Affordable PFC, Inc. applied for and was granted a supplemental issuance of tax-exempt bonds. Staff is asking for approval of final resolutions to close the supplemental issuance in the amount of \$3,000,000. This will also come with an additional tax credit award in the amount of \$3,750,000.

This property benefits HACA/AAHC with its deep affordability and large number of three and four bedrooms. It will also have a robust after school program for the children.

Unit Breakdown:     19 – one bedroom/one bath  
                             79 – two bedroom/two bath  
                             90 – three bedroom/two bath  
                             16 – four bedroom/two bath

***Staff Recommendation:***

Staff recommends approval of Resolution No. 00102.

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**RESOLUTION NO. 00102**

**RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF MULTIFAMILY HOUSING GOVERNMENTAL NOTE (BRIDGE AT LOYOLA LOFTS), SERIES 2023; APPROVING THE FORM AND SUBSTANCE OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS NECESSARY TO CARRY OUT THE FINANCING OF SUCH MULTIFAMILY RENTAL RESIDENTIAL DEVELOPMENT; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT**

**WHEREAS**, Austin Affordable PFC, Inc. (the “Governmental Lender”) has been duly created and organized pursuant to and in accordance with the provisions of the Public Facility Corporation Act, Chapter 303, Texas Local Government Code, as amended (the “Act”), for the purpose of assisting the Housing Authority of the City of Austin (the “Sponsor”) in financing, refinancing or providing public facilities; and

**WHEREAS**, the Act authorizes the Governmental Lender: (a) to make loans to any person to provide financing for rental residential developments located within the corporate limits of the City of Austin, Texas (the “City”), and intended to be occupied substantially (at least 90 percent) by persons of low and moderate income, as determined by the Governmental Lender; (b) to borrow funds for the purpose of obtaining moneys to make such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with any such borrowing by the Governmental Lender; and (c) to pledge all or any part of the revenues, receipts or resources of the Governmental Lender, including the revenues and receipts to be received by the Governmental Lender from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Governmental Lender in order to secure the repayment of any such borrowing by the Governmental Lender; and

**WHEREAS**, the Board of Directors of the Governmental Lender (the “Board”) has determined to authorize the issuance, sale and delivery of its Multifamily Housing Governmental Note (Bridge at Loyola Lofts) Series 2023 (the “Governmental Note”), pursuant to and in accordance with the terms of a Funding Loan Agreement, dated on or about of May 1, 2023 (the “Funding Loan Agreement”), between the Governmental Lender and BOKF, NA, as fiscal agent (the “Fiscal Agent”), and Bridge at Loyola Navistone Instrument Purchaser LLC, as initial funding lender (the “Funding Lender”), for the purpose of lending the proceeds thereof to Bridge at Loyola Lofts, LP, a Texas limited partnership (the “Borrower”), to provide financing for the construction and equipping of a multifamily rental residential development to be known as Bridge at Loyola Lofts to be located within the City of Austin at approximately 6420 Loyola Lane, Austin, Texas 78724 and described more fully on Exhibit A attached hereto (the “Project”), all in accordance with the Constitution and laws of the State of Texas; and

**WHEREAS**, the Board, by resolution adopted on September 20, 2018, declared its intent to provide financing for the Project; and

**WHEREAS**, in order to assist in carrying out such construction and equipping of the Project, the Board has determined that the Governmental Lender shall enter into a Project Loan Agreement dated on or about May 1, 2023 (the “Project Loan Agreement”), between the Governmental Lender, Fiscal Agent, and the Borrower, pursuant to which (i) the Governmental Lender will agree to make a mortgage loan funded with the proceeds of the Governmental Note (the “Mortgage Loan”) to the Borrower to enable the Borrower to finance the cost of the construction and equipping of the Project and related costs, and (ii) the Borrower will execute and deliver to the Governmental Lender a promissory note (the “Multifamily Note”) in an original aggregate principal amount equal to the original aggregate principal amount of the Governmental Note, and providing for payment of interest on such principal amount equal to the interest on the Governmental Note and to pay other costs described in the Project Loan Agreement; and

**WHEREAS**, in order to assure compliance with Section 142(d) of the Internal Revenue Code of 1986, as amended (the “Code”), the Governmental Lender will require the Borrower to enter into a Regulatory Agreement and Declaration of Restrictive Covenants, dated on or about May 1, 2023 (the “Regulatory Agreement”) with respect to the Project; and

**WHEREAS**, it is anticipated that the Multifamily Note will be secured by a Multifamily Leasehold Deed of Trust (with Security Agreement, Assignment of Rents and Fixture Filing) (the “Mortgage”) from the Borrower for the benefit of the Governmental Lender, and documented by related transfer, sale and assignment documents (collectively, the “Funding Loan Documents”); and

**WHEREAS**, the Governmental Lender’s rights (except for certain reserved rights) under the Mortgage Loan, including the Multifamily Note and the Mortgage, will be assigned to the Fiscal Agent, as its interests may appear, pursuant to an Assignment of Deed of Trust and Loan Documents (the “Assignment”) between the Governmental Lender and the Fiscal Agent and acknowledged, accepted and agreed to by the Borrower; and

**WHEREAS**, the Board desires to ratify certain other actions heretofore taken with respect to the Governmental Note; and

**WHEREAS**, the Governmental Lender desires to authorize the Fiscal Agent to invest and reinvest the proceeds of the Governmental Note and all other funds received and held under the Funding Loan Agreement; and

**WHEREAS**, Section 147(f) of the Code requires that the Governmental Note be approved by the “applicable elected representative” (the “AER”) after a public hearing following reasonable public notice; and

**WHEREAS**, with respect to notes issued by the Governmental Lender, the AER is the Mayor of the City; and

**WHEREAS**, notice of a public hearing with respect to the Governmental Note and the Project held by the Governmental Lender on December 22, 2022, was published no less than 7 days before such date in a newspaper of general circulation available to residents within the City; and

**WHEREAS**, the Board held such public hearing on the date and at the time and place set out in such published notice, and conducted such hearing in a manner that provided a reasonable opportunity for persons with differing views on the issuance of the Governmental Note and the Project to be heard; and

**WHEREAS**, the Board and its advisors have examined proposed forms of the Funding Loan Agreement, the Project Loan Agreement, the Regulatory Agreement, the Multifamily Note, the Mortgage, and the Assignment, and have found the form and substance of such documents to be satisfactory and proper; and have determined to provide financing for the Project in accordance with such documents by authorizing the issuance of the Governmental Note, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF GOVERNMENTAL LENDER THAT:**

Section 1.--Public Hearing. The Board hereby finds, determines, recites and declares that a public hearing with respect to the Governmental Note and the Project was held on December 22, 2022; that notice of such public hearing was published no less than 7 days before such date in a newspaper of general circulation available to residents within the City; that such notice included the date, time and place of the public hearing, the location, general nature and the initial owner of the Project and the maximum aggregate principal amount of the Governmental Note; and that all comments from interested persons were taken at such public hearing and were provided to the AER.

Section 2.--Issuance, Execution, Sale and Delivery of the Governmental Note. The issuance of the Governmental Note is hereby authorized, according to the conditions set forth herein and in the Funding Loan Agreement, and that, upon execution and delivery of the Funding Loan Agreement, the President or Vice President and the Secretary of the Governmental Lender are each hereby authorized to execute, attest and affix the Governmental Lender's seal to the Governmental Note (if any) and to deliver the Governmental Note to the Attorney General of the State of Texas for approval, the Comptroller of Public Accounts of the State of Texas for registration and to the Fiscal Agent for authentication (to the extent required in the Funding Loan Agreement), and thereafter to sell the Governmental Note and deliver the Governmental Note as provided in the Funding Loan Agreement.

Section 3.--Interest Rate, Principal Amount, Maturity and Price. The officers of the Governmental Lender are hereby authorized to fix and determine the interest rate, principal amount, maturity and price of the Governmental Note, all of which determinations shall be conclusively evidenced by the execution and delivery by such officers of the Funding Loan Agreement; provided, however, that: (a) the interest rate on the Governmental Note shall not exceed 10% per annum, subject to adjustment as provided in the Funding Loan Agreement; provided that, in no event shall the interest rate on the Governmental Note (including any default interest rate) exceed the maximum interest rate permitted by applicable law; (b) the aggregate principal amount of the Governmental Note shall not exceed \$3,000,000; and (c) the final maturity of the Governmental Note shall occur not later than May 1, 2063.

Section 4.--Approval, Execution and Delivery of the Funding Loan Agreement. The form and substance of the Funding Loan Agreement are hereby approved; and that the President or any Vice President or the Secretary of the Governmental Lender are each hereby authorized to execute and attest to the Funding Loan Agreement and to deliver the Funding Loan Agreement to the Fiscal Agent. The Fiscal Agent is authorized to invest the moneys held under the Funding Loan Agreement as provided therein.

Section 5.--Approval, Execution and Delivery of the Project Loan Agreement. The form and substance of the Project Loan Agreement are hereby approved; and that the officers of the Governmental Lender are each hereby authorized to execute, attest and affix the Governmental Lender's seal (if any) to the Project Loan Agreement and to deliver the Project Loan Agreement to the Borrower.

Section 6.--Approval, Execution and Delivery of the Regulatory Agreement. The form and substance of the Regulatory Agreement are hereby approved; and that the officers of the Governmental Lender are each hereby authorized to execute, attest and affix the Governmental Lender's seal (if any) to the Regulatory Agreement and to deliver the Regulatory Agreement to the Borrower and the Fiscal Agent.

Section 7.--Determination of Moderate Income. The Board has heretofore determined and hereby confirms, in accordance with the Act, for purposes of the Project, until revised by the Board, that the maximum amount constituting moderate income shall be 80% of area median income, as established by the Governmental Lender.

Section 8.--Acceptance of the Mortgage and the Multifamily Note. That the Mortgage and the Multifamily Note are hereby accepted by the Governmental Lender; and that the officers of the Governmental Lender are each hereby authorized to endorse the Multifamily Note to the order of the Fiscal Agent, without recourse.

Section 9.--Execution and Delivery of Other Documents. The officers of the Governmental Lender are each hereby authorized to execute, attest and affix the Governmental Lender's seal (if any) to and deliver such other agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, written requests and other papers, including the Assignment and the Funding Loan Documents, 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 10.--Power to Revise Form of Documents. Notwithstanding any other provision of this Resolution, the officers of the Governmental Lender are each hereby authorized to make or approve such revisions to this Resolution and in the form of the documents hereby approved, in the opinion of Bond Counsel, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution; and approval of such changes by the Governmental Lender shall be indicated by such officers' execution of the documents.

Section 11.--Incorporation of Preamble. The recitals in the preamble of this Resolution are true, correct and complete and each and all of such recitals and the findings therein are hereby incorporated by reference to the same extent as if set forth herein in full.

Section 12.--Submission to the Attorney General of Texas. The Board hereby authorizes the submission by bond counsel to the Attorney General of Texas, for approval as required under Chapter 1202, Texas Government Code, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Governmental Note.

Section 13.--Purposes of Resolution. The Board has expressly determined and hereby confirms that the issuance of the Governmental Note to assist in the financing of the Project will promote the public purposes set forth in Chapter 392 and Section 394.002 of the Texas Local Government Code and will accomplish a valid public purpose of the Governmental Lender by assisting persons of low and moderate income in the City to obtain decent, safe and sanitary housing at affordable prices.

Section 14.--Limited Obligations. The Governmental Note and the interest thereon shall be limited obligations of the Governmental Lender payable solely from the revenues, funds and assets pledged under the Agreement to secure payment of the Governmental Note and under no circumstances shall the Governmental Note be payable from any other revenues, funds, assets or income of the Governmental Lender.

Section 15.--Ratification of Certain Prior Actions. All other prior actions taken for or on behalf of the Governmental Lender in connection with the Governmental Note are hereby ratified, confirmed and approved.

Section 16.--Limited Obligations. The Governmental Note shall not constitute an indebtedness, liability, general, special or moral obligation or a pledge or loan of the faith or credit or taxing power, within the meaning of any constitutional or statutory provision whatsoever, of the United States of America or any agency or instrumentality thereof, the State of Texas, the City, the Sponsor or any other political subdivision or governmental unit.

Section 17.--Approval Conditions. The actions and obligations authorized in this Resolution shall be subject to and conditioned upon receipt by the Governmental Lender on the date of delivery of the Governmental Note of the appropriate opinions of bond counsel with respect to the Governmental Note.

Section 18.--Information Return for Tax Exempt Private Activity Bonds. The Board further directs that an officer of the Governmental Lender submit or cause to be submitted to the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Governmental Note is issued, a statement containing the information required by Section 149(e) of the Code.

Section 19.--Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

[End of Resolution.]

**PASSED, APPROVED, AND ADOPTED** this 20th day of April, 2023.

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EDWINA CARRINGTON, CHAIRPERSON

ATTEST:

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SECRETARY



## **Exhibit A**

### **PROJECT AND BORROWER**

Borrower: Bridge at Loyola Lofts, LP, a Texas limited partnership

Project: 204-unit multifamily residential rental development to be known as Bridge at Loyola Lofts

The Project will be located at approximately 6420 Loyola Lane, Austin, Texas 78724. It will consist of 4 residential apartment buildings with approximately 212,513 net rentable square feet.

The unit mix will consist of:

<u>19</u>	one-bedroom/one-bath units
<u>79</u>	two-bedroom/two-bath units
<u>90</u>	three-bedroom/two-bath units
<u>16</u>	four-bedroom/two-bath units
204	Total Units

**AUSTIN AFFORDABLE PFC, INC.**

**BOARD ACTION REQUEST**

**RESOLUTION NO. 00103**

**ITEM NO. 7.**

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**MEETING DATE:** April 20, 2023

**STAFF CONTACT:** Suzanne Schwertner, Director of Development

**ITEM TITLE:** Presentation, Discussion and Possible Action on Resolution No. 00103 authorizing the issuance, sale and delivery of Multifamily Housing Revenue Bonds (Bridge at Canyon View), Series 2023; authorizing the execution and delivery of documents and instruments necessary to carry out the financing of such multifamily residential rental development; and containing other provisions relating to the subject

**BUDGETED ITEM:** N/A

**TOTAL COST:** N/A

**ACTION**

The Board is being asked to approve Resolution No. 00103 authorizing the issuance, sale and delivery of Multifamily Housing Revenue Bonds (Bridge at Canyon View), Series 2023; authorizing the execution and delivery of documents and instruments necessary to carry out the financing of such multifamily residential rental development; and containing other provisions relating to the subject.

**SUMMARY**

***Background:***

Austin Affordable PFC, Inc. issued bonds for the Bridge at Canyon View (located at 4506 E. William Cannon, Austin 78744) in December 2019 and construction started soon thereafter. The property includes 215 units affordable to families earning 60% AMI and below with family friendly amenities. The project is financed using the 4% tax credit/tax-exempt bond structure. Unit breakdown: 71 one bedroom/one bath, 54 two bedroom/ two bath and 90 three bedroom/two bath units. All units will be marketed to HACA's Housing Choice Voucher residents.

***Process:***

The year after Bridge at Canyon View closed, Congress passed legislation that raised the floor of the 4% tax credits to a true 4%. Up until 2020, the rate floated and was as low as 3.2%. The tax credits received on this development were based on a tax credit rate of less than 4%. With TDHCA's approval, we are able to request a supplemental issuance of tax credits to bring us up to the current 4% floor. Under this program, the tax credits go hand and hand with the tax-exempt bonds. In order to obtain the supplemental credits, we are required to obtain additional tax-exempt bonds.

In December 2022, Austin Affordable PFC, Inc. requested and was granted an inducement by the Board for

a supplemental issuance of tax-exempt bonds. We were awarded the issuance soon thereafter. Staff is asking for approval of final resolutions to close the supplemental issuance in the amount of \$4,000,000. This will also come with an additional tax credit award in the amount of \$4,331,780.

This property benefits HAC/AAHC with units that are deeply affordable and located just south of downtown on William Cannon as well as after- school programs for families with children.

Unit breakdown:                      71 – one bedroom/one bath  
   54 – two bedroom/two bath  
   90 – three bedroom/two bath

***Staff Recommendation:***

Staff recommends approval of Resolution No. 00103.

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**RESOLUTION NO. 00103**

**RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF SUBORDINATE MULTIFAMILY HOUSING REVENUE BONDS (THE BRIDGE AT CANYON VIEW APARTMENTS) SERIES 2023; AUTHORIZING THE EXECUTION AND DELIVERY OF DOCUMENTS AND INSTRUMENTS NECESSARY TO CARRY OUT THE FINANCING OF SUCH MULTIFAMILY RESIDENTIAL RENTAL DEVELOPMENT; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT**

**WHEREAS**, Austin Affordable PFC, Inc. (the “Issuer”) has been duly created and organized pursuant to and in accordance with the provisions of the Public Facility Corporation Act, Chapter 303, Texas Local Government Code, as amended (the “Act”), for the purpose of assisting the Housing Authority of the City of Austin (the “Sponsor”) in financing, refinancing or providing public facilities; and

**WHEREAS**, the Act authorizes the Issuer: (a) to make loans to any person to provide financing for rental residential developments located within the corporate limits of the City of Austin, Texas (the “City”), and intended to be occupied substantially (at least 90 percent) by persons of low and moderate income, as determined by the Issuer; (b) to issue its revenue bonds for the purpose of obtaining moneys to make such loans and provide such financing, to establish necessary reserve funds and to pay administrative costs and other costs incurred in connection with the issuance of such bonds; and (c) to pledge all or any part of the revenues, receipts or resources of the Issuer, including the revenues and receipts to be received by the Issuer from or in connection with such loans, and to mortgage, pledge or grant security interests in such loans or other property of the Issuer in order to secure the payment of the principal or redemption price of and interest on such bonds; and

**WHEREAS**, the Board of Directors of the Issuer (the “Board”) has determined to authorize the issuance, sale and delivery of its Subordinate Multifamily Housing Revenue Bonds (The Bridge at Canyon View Apartments) Series 2023 (collectively, the “Bonds”), pursuant to and in accordance with the terms of a Trust Indenture, dated as of May 1, 2023 (the “Indenture”), between the Issuer and BOKF, NA, as trustee (the “Trustee”), for the purpose of lending the proceeds thereof to Bridges at Canyon View, LP, a Texas limited partnership (the “Borrower”), to provide financing for the construction of a multifamily housing residential rental development known as the Bridge at Canyon View, located within the City of Austin at approximately 4506 East William Cannon Drive, Austin, Texas 78744 and described more fully on Exhibit A attached hereto (the “Project”), all in accordance with the Constitution and laws of the State of Texas; and

**WHEREAS**, the Board, by resolution adopted on December 7, 2022, declared its intent to issue its revenue bonds to provide financing for the Project; and

**WHEREAS**, in order to assist in carrying out the construction and equipping of the Project, the Board has determined that the Issuer shall enter into a Loan Agreement (the “Agreement”), with the Borrower, pursuant to which (i) the Issuer will agree to make a mortgage loan funded with the proceeds of the Bonds (the “Mortgage Loan”) to the Borrower to enable the Borrower to finance costs of the construction and equipping of the Project and related costs, and (ii) the Borrower will execute and deliver a promissory note (the “Note”) in an original principal amount equal to the original aggregate principal amount of the Bonds, and providing for payment of interest on such principal amount equal to the interest on the Bonds and to pay other costs described in the Agreement; and

**WHEREAS**, in order to assure compliance with Section 142(d) of the Internal Revenue Code of 1986, as

amended (the “Code”), the Issuer will require the Borrower to enter into an Amended and Restated Land Use Restriction Agreement, dated as of May 1, 2023 (the “Regulatory Agreement”) with respect to the Project; and

**WHEREAS**, the Board desires to ratify certain other actions heretofore taken with respect to the Bonds; and

**WHEREAS**, the Issuer desires to authorize the Trustee to invest and reinvest the proceeds of the Bonds and all other funds received and held under the Agreement; and

**WHEREAS**, Section 147(f) of the Code requires that the Bonds be approved by the “applicable elected representative” (the “AER”) after a public hearing following reasonable public notice; and

**WHEREAS**, with respect to bonds issued by the Issuer, the AER is the Mayor of the City; and

**WHEREAS**, notice of a public hearing with respect to the Bonds and the Project held by the Issuer on December 22, 2022, was published no less than 7 days before such date in a newspaper of general circulation available to residents within the City; and

**WHEREAS**, the Board held such public hearing on the date and at the time and place set out in such published notice, and conducted such hearing in a manner that provided a reasonable opportunity for persons with differing views on the issuance of the Bonds and the Project to be heard; and

**WHEREAS**, the Board has determined to provide financing for the Project in accordance with the Agreement, the Bonds, the Regulatory Agreement (all documents in such form as approved by the officers of the Issuer and its advisors), by authorizing the issuance of the Bonds, the execution and delivery or acceptance, as appropriate, of such documents and the taking of such other actions as may be necessary or convenient;

**NOW, THEREFORE**, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF AUSTIN AFFORDABLE PFC, INC. THAT:

Section 1.--Public Hearing. The Board hereby finds, determines, recites and declares that a public hearing with respect to the Bonds and the Project was held on December 22, 2022; that notice of such public hearing was published no less than 7 days before such date in a newspaper of general circulation available to residents within the City; that such notice included the date, time and place of the public hearing, the location, general nature and the initial owner of the Project and the maximum aggregate principal amount of the Bonds; and that all comments from interested persons were taken at such public hearing and were provided to the AER.

Section 2.--Issuance, Execution, Sale and Delivery of the Bonds. The issuance of the Bonds is hereby authorized, according to the conditions set forth herein and in the Agreement, and upon execution and delivery of the Agreement, the President or Vice President and the Secretary of the Issuer are each hereby authorized to execute, attest and affix the Issuer’s seal (if any) to the Bonds and to deliver the Bonds to the Attorney General of the State of Texas for approval, the Comptroller of Public Accounts of the State of Texas for registration and the Trustee for authentication (to the extent required in the Indenture), and thereafter to sell the Bonds to the purchaser thereof as provided in the Indenture and deliver the Bonds as provided in the Indenture.

Section 3.--Interest Rate, Principal Amount, Maturity and Price. The officers of the Issuer are hereby authorized to fix and determine the interest rate, principal amount, maturity and price of the Bonds, all of which determinations shall be conclusively evidenced by the execution and delivery by such officers of the Indenture and the Bonds; provided, however, that: (i) the interest on the Bonds shall initially not exceed 10%; (ii) the aggregate principal amount of the Subordinate Multifamily Housing Revenue Bonds (The Bridge at Canyon View Apartments) Series 2023 shall not exceed \$5,000,000; (iii) the final maturity of the Bonds shall occur not

later than May 1, 2063; and (iv) the price at which the Bonds are sold shall not exceed the principal amount thereof.

Section 4.--Approval, Execution and Delivery of the Indenture and the Agreement. The officers of the Issuer are each hereby authorized to execute the Indenture and the Agreement in form and substance approved by such officers, with such changes or additions thereto as may be approved by any officer of the Issuer (upon advice of bond counsel to the Issuer), as evidenced by the execution and delivery of the Indenture and the Agreement.

Section 5.--Approval, Execution and Delivery of the Regulatory Agreement. The officers of the Issuer are each hereby authorized to execute the Regulatory Agreement in form and substance approved by such officers, with such changes or additions thereto as may be approved by any officer of the Issuer (upon advice of bond counsel to the Issuer), as evidenced by their execution and delivery and to deliver the Regulatory Agreement.

Section 6.--Determination of Moderate Income. The Board has heretofore determined and hereby confirms, in accordance with the Act, for purposes of the Project, until revised by the Board, that the maximum amount constituting moderate income shall be 80% of area median income, as established by the Issuer.

Section 7.--Execution and Delivery of Other Documents. The officers of the Issuer are each hereby authorized to execute, attest and affix the Issuer's seal (if any) to and deliver such other agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, 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 8.--Power to Revise Form of Documents. Notwithstanding any other provision of this Resolution, the officers of the Issuer are each hereby authorized to make or approve such revisions in the form of the documents hereby approved, in the opinion of bond counsel, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution; and approval of such changes by the Issuer shall be indicated by such officers' execution of the documents.

Section 9.--Incorporation of Preamble. The recitals in the preamble of this Resolution are true, correct and complete and each and all of such recitals and the findings therein are hereby incorporated by reference to the same extent as if set forth herein in full.

Section 10.--Submission to the Attorney General of Texas. The Board hereby authorizes the submission by bond counsel to the Attorney General of Texas, for approval as required under Chapter 1202, Texas Government Code, of a transcript of legal proceedings relating to the issuance, sale and delivery of the Bonds.

Section 11.--Purposes of Resolution. The Board has expressly determined and hereby confirms that the issuance of the Bonds to assist in the financing of the Project will promote the public purposes set forth in Chapter 392 and Section 394.002 of the Texas Local Government Code and will accomplish a valid public purpose of the Issuer by assisting persons of low and moderate income in the City to obtain decent, safe and sanitary housing at affordable prices, thereby helping to relieve unemployment, to preserve and increase the tax base of the City, and to reduce public expenditures for crime prevention and control, public health, welfare and safety and for other valid public purposes.

Section 12.--Limited Obligations. The Bonds and the interest thereon shall be limited obligations of the Issuer payable solely from the revenues, funds and assets pledged under the Agreement to secure payment of the Bonds and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Issuer. The Bonds shall not constitute an indebtedness, liability, general, special or moral obligation or a pledge or loan of the faith or credit or taxing power, within the meaning of any constitutional or statutory provision whatsoever, of the United States of America or any agency or instrumentality thereof, the

State of Texas, the City, the Sponsor or any other political subdivision or governmental unit.

Section 13.--Ratification of Certain Prior Actions. All other prior actions taken for or on behalf of the Issuer in connection with the Bonds are hereby ratified, confirmed and approved.

Section 14.--Approval Conditions. The actions and obligations authorized in this Resolution shall be subject to and conditioned upon receipt by the Issuer on the date of delivery of the Bonds of the appropriate opinions of tax counsel with respect to the Bonds.

Section 15.--Information Return for Tax Exempt Private Activity Bonds. The Board further directs that an officer of the Issuer submit or cause to be submitted to the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Bonds is issued, a statement containing the information required by Section 149(e) of the Code.

Section 16.--Effective Date. This Resolution shall be in full force and effect from and upon its adoption.

*[End of Resolution.]*

**PASSED, APPROVED AND ADOPTED** this 20th day of April, 2023.

\_\_\_\_\_  
EDWINA CARRINGTON, CHAIRPERSON

ATTEST:

\_\_\_\_\_  
SECRETARY

**AUSTIN AFFORDABLE PFC, INC.**

**BOARD ACTION REQUEST**

**RESOLUTION NO. 00104**

**ITEM NO. 8.**

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**MEETING DATE:** April 20, 2023

**STAFF CONTACT:** Suzanne Schwertner, Director of Development

**ITEM TITLE:** Presentation, Discussion and Possible Action on Resolution No. 00104: resolution declaring intent to issue bonds to provide financing for a Multifamily Residential Rental Development for Persons of Low and Moderate Income (Parmer Crossing South Apartments); prescribing certain terms and conditions of such bonds; authorizing the filing of an application for allocation of private activity bonds with the Texas Bond Review Board; and containing other provisions relating to the subject

**BUDGETED ITEM:** N/A

**TOTAL COST:** N/A

**ACTION**

The Board is being asked to approve Resolution No. 00104 declaring intent to issue bonds to provide financing for a Multifamily Residential Rental Development for Persons of Low and Moderate Income (Parmer Crossing South Apartments); prescribing certain terms and conditions of such bonds; authorizing the filing of an application for allocation of private activity bonds with the Texas Bond Review Board; and containing other provisions relating to the subject.

**SUMMARY**

***Background:***

Austin Affordable Housing Corporation is being presented with an opportunity to partner with The NRP Group, LLC on a certain 14.16 acre tract of land located at approximately 8111 E. Parmer Lane, Austin, Texas 78653 in the Austin extraterritorial jurisdiction (ETJ). The project (Parmer Crossing) will consist of 320 family apartment units serving tenants at or below 60% of median family income. This is the first time this project is being presented to the Board. This project, if approved, will return to the Board at least two more times.

This proposed property will benefit HACA and AAHC with deep affordability, a large number of family units and a location that is growing rapidly with retail, office and market rate apartments. Once built, we will explore a name with some form of “The Bridge at” included.

***Process:***

The development will use a mixture of 4% tax credits and bonds to finance the development with a total project cost of approximately \$85,000,000. The planned development will consist of 16 one bedroom and



one bath units, 128 two bedroom and two bath units, 144 three bedroom and two bath units, and 32 four bedroom and two bath units. All units will be marketed to HACA's Housing Choice Voucher residents.

HACA, through its Public Facility Corporation is requesting the approval of an issuance of tax-exempt bonds in an amount not to exceed \$60,000,000. This approval will begin the initial process to submit an application for bond issuance. Staff will be presenting back to the Board in the future months on the progress and specifically any and all agreements and approvals.

***Staff Recommendation:***

Staff recommends approval of Resolution No. 00104.

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**RESOLUTION NO. 00104**

**Resolution Declaring Intent to Issue Bonds to Provide Financing for a Multifamily Residential Rental Development for Persons of Low and Moderate Income (Parmer Crossing South Apartments); Prescribing Certain Terms and Conditions of such Bonds; authorizing the filing of an application for allocation of private activity bonds with the Texas Bond Review Board; and containing other provisions relating to the subject**

**WHEREAS**, the Board of Commissioners of the Housing Authority of the City of Austin (the "**Unit**") has, pursuant to the Public Facility Corporation Act, Chapter 303, Texas Local Government Code, as amended (the "**Act**"), approved and created the Austin Affordable PFC, Inc., a nonprofit public facility corporation (the "**Issuer**");

**WHEREAS**, on November 5, 2012, the Issuer's Certificate of Formation was filed with the Secretary of State of the State of Texas;

**WHEREAS**, the Issuer, on behalf of the Unit is empowered to issue bonds to finance, refinance, or provide one or more public facilities, as such term is defined in the Act, which projects will be within the Unit's boundaries, including Austin, Texas;

**WHEREAS**, Parmer Crossing South, Ltd., a Texas limited partnership, or such other limited partnership as the sole member of the general partner of the User designates (the "**User**"), has requested that the Issuer finance a low and moderate income multifamily housing project to be located at approximately 8111 East Parmer Lane, Austin, Texas 78653 (the "**Project**"), and further that the Issuer adopt this Resolution with respect to the acquisition and construction of the Project;

**WHEREAS**, the User has advised the Issuer that a contributing factor which would further induce the User to proceed with providing for the acquisition and construction of the Project would be a commitment and agreement by the Issuer to issue revenue bonds pursuant to the Act (the "**Bonds**") to finance and pay for the Project;

**WHEREAS**, in view of a shortage of decent, safe and sanitary housing for persons and families of low income at prices or rentals that they can afford, it is considered essential that construction of the Project be completed at the earliest practicable date, but at the same time, the User wishes to begin construction of the Project after satisfactory assurances from the Issuer, subject to the conditions set forth herein, that the proceeds of the sale of the Bonds, or other obligations, of the Issuer in an amount necessary to pay the costs of the Project will be made available to finance the Project; and

**WHEREAS**, the Issuer finds, intends, and declares that this Resolution shall constitute its official action, subject to the conditions set forth herein, to issue Bonds, or other obligations, pursuant to the Act in an amount prescribed by the User not to exceed the maximum aggregate principal amount up to \$60,000,000 for tax-exempt obligations and to expend the proceeds thereof to acquire, construct, and install the Project and to pay all expenses and costs of the Issuer in connection with the issuance of the Bonds; and

**WHEREAS**, in order to finance and pay for the Project through the issuance of revenue bonds, the interest on which is excludable from the gross income of the holders thereof under the Internal Revenue Code of 1986, as amended (the "**Code**"), the Issuer must submit an Application for Allocation of Private Activity Bonds or

an Application for Carryforward for Private Activity Bonds (the "**Application**") to the Texas Bond Review Board (the "**TBRB**") for a reservation of state ceiling available to "**private activity bonds**" (as defined in the Code) for a calendar year;

**THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE AUSTIN AFFORDABLE PFC, INC. THAT:**

Section 1. Subject to the terms hereof, the Issuer agrees that it will:

(a) Issue the Bonds, and if the User and the Issuer agree, other evidences of indebtedness providing temporary financing of the Project, which will be issued after the date hereof and be refunded by the Bonds pursuant to the Act, or any other Texas legislation heretofore or hereafter enacted which may provide a suitable method of financing in addition to or in substitution for the Act.

(b) Cooperate with the User with respect to the issuance of the Bonds, and, if arrangements therefor satisfactory to the User and the Issuer can be made, the Issuer will take such action and authorize the execution of such documents and will take such further action as may be necessary or advisable for the authorization, execution, and delivery of any contracts or agreements deemed necessary or desirable by the User or the Issuer in connection with the issuance of the Bonds (collectively, the "**Contracts**"), providing among other things for payment of the principal of, interest on, redemption premiums, paying agents' charges, and Trustee's fees, if any, on the Bonds; payment of fees and charges of the Issuer or the Unit; acquisition, construction, and improvement of the Project or reimbursement of Project costs; and use, operation, and maintenance of the Project (and the execution of any appropriate and necessary guaranty agreements), all as shall be authorized, required, or permitted by law and as shall be mutually satisfactory to the Issuer, the Unit, and the User.

(c) If the proceeds from the sale of the Bonds are insufficient, take such actions and execute such documents as may be necessary to permit the issuance from time to time in the future of additional bonds on terms which shall be set forth therein, whether on a parity with other series of bonds or otherwise, for the purpose of paying the costs of completing the acquisition and construction of the Project, as requested by the User and within then applicable limitations.

(d) Take or cause to be taken such other actions as may be required to implement the aforesaid undertakings or as it may deem appropriate in pursuance thereof.

The Bonds shall specifically provide that neither the State of Texas, the Unit, nor any political issuer, subdivision, or agency of the State of Texas shall be obligated to pay the same or the interest thereon and that neither the faith and credit nor the taxing power of the State of Texas, the Unit, or any political issuer, subdivision, or agency thereof is pledged to the payment of the principal of, premium, if any, or interest on the Bonds.

The obligation of the Issuer to issue the Bonds is specifically subject to satisfaction of each of the following conditions:

(i) the receipt of a ruling from the Internal Revenue Service or an opinion from nationally recognized bond counsel, substantially to the effect that the interest on the Bonds is excludable from gross income tax purposes under existing law;

(ii) approval of the Bonds by all other governmental agencies required to approve the Bonds including, but not limited to, approval of the Bonds by the Mayor of the City of Austin, Texas, the Attorney General of the State of Texas and any other applicable governmental authority; and

(iii) any other conditions reasonably imposed by the Issuer.

Section 2. The Issuer hereby authorizes the submission of an Application to the TBRB for a reservation of the state ceiling for "private activity bonds" for program year 2023 (or other available bond funds administered by the TBRB) and each subsequent calendar year at the User's request to finance the Project. Any officer of the Issuer is hereby authorized to execute and submit an Application to the TBRB in such form as may be approved by the TBRB for such purpose.

Section 3. It is understood by the Issuer and the Unit, and the User has represented to the Issuer, that in consideration of this Resolution and by filing the Application, and subject to the terms and conditions hereof, the User has agreed that:

(a) Prior to the sale of the Bonds in one or more series or issues from time to time as the Issuer and the User shall hereafter agree to in writing, the User will enter into the Contracts with the Issuer under the terms of which the User will obligate itself to pay to the Issuer (or to a Trustee, as the case may be) sums sufficient in the aggregate to pay the principal of, interest on, redemption premiums, paying agents' fees, and Trustee's fees, if any, on the Bonds, as and when the same become due and payable, with such contract to contain the provisions described in Section 1 hereof and such other provisions as may be required or permitted by law and to be mutually acceptable to the Issuer and the User.

(b) The User will (1) pay all Project costs which are not or cannot be paid or reimbursed from the proceeds of the Bonds and (2) at all times, indemnify and hold harmless the Issuer against all losses, costs, damages, expenses, and liabilities of whatsoever nature (including but not limited to attorneys' fees, litigation and court costs, amounts paid in settlement, and amounts paid to discharge judgments) directly or indirectly resulting from, arising out of or related to the issuance, offering, sale, or delivery of the Bonds, or the design, construction, operation, use, occupancy, maintenance, or ownership of the Project.

(c) The User will provide to the Issuer all information required to be submitted to the TBRB and any other governmental agencies for approval of the Project or the Bonds and will execute all necessary documents in connection therewith.

Section 4. The Issuer finds, determines, recites and declares that the issuance of the Bonds to provide financing for the Project will promote the public purposes set forth in Section 303 of the Act, including, without limitation, assisting persons of low and moderate income to obtain decent, safe and sanitary housing at rentals they can afford.

**Section 5. Neither the User nor any other party is entitled to rely on this Resolution as a commitment to loan funds, and the Issuer reserves the right not to issue the Bonds either with or without cause and with or without notice, and in such event the Issuer shall not be subject to any liability or damages of any nature. Neither the User nor anyone claiming by, through or under the User, nor any investment banking firm or potential purchaser of the Bonds shall have any claim against the Issuer whatsoever as a result of any decision by the Issuer not to issue the Bonds.**

Section 6. It is recognized and agreed by the Issuer that the User may exercise its rights and perform its obligations with respect to the financing of the Project either through (i) itself in its own name; (ii) any of its wholly-owned subsidiaries; (iii) any "related person" as defined in Section 144(a)(3) of the Code; or (iv) any legal successor thereto, respectively, subject to approval of the Issuer's bond counsel and, provided that suitable guaranties necessary or convenient for the marketability of the Bonds shall be furnished, if required by the Issuer, and all references to the User shall be deemed to include the User acting directly through itself or any such approved entities.

Section 7. This Resolution is affirmative of official action taken by the Issuer towards the issuance of the Bonds within the meaning of Sections 1.1038(a)(5)(i) and (ii) and 1.150-2, Title 26, Code of Federal

Regulations, as amended (or other applicable Sections of the Code), and applicable rulings of the Internal Revenue Service thereunder, to the end that Bonds issued to reimburse Project costs may qualify for the exemption provisions of Section 142(a)(7) of the Code and that the interest on the 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 8. The Issuer hereby authorizes the filing and any resubmission of an Application with the TBRB, and that Coats Rose, P.C. be designated as the authorized representative of the Issuer for purposes of an Application (“**Bond Counsel**”). Any officer of the Issuer is hereby authorized and directed to execute an Application on behalf of the Issuer and to take any and all other actions related to such Application or necessary or desirable to carry out the provisions of this Resolution, including any further revisions to this Resolution.

Section 9. Notwithstanding any other provision of this Resolution, the officers of the Issuer are each hereby authorized to make or approve such revisions to this Resolution and in the form of the documents hereby approved, in the opinion of Bond Counsel, as may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution; and approval of such changes by the Issuer shall be indicated by such officers’ execution of the documents.

**PASSED, APPROVED AND ADOPTED** this 20th day of April, 2023.

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EDWINA CARRINGTON, CHAIRPERSON

ATTEST:

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SECRETARY