

BOARD ACTION REQUEST

BOND FINANCE DIVISION

JANUARY 17, 2019

Presentation, discussion, and possible action on Resolution No. 19-022 authorizing the issuance, sale and delivery of Texas Department of Housing and Community Affairs Residential Mortgage Revenue Bonds, Series 2019A, approving the form and substance of related documents, authorizing the execution of documents and instruments necessary or convenient to carry out the purposes of this resolution, and containing other provisions relating to the subject

RECOMMENDED ACTION

Adopt attached resolution.

BACKGROUND

At the Board meeting of November 8, 2018, the Board granted approval to begin the process of issuing single family mortgage revenue bonds for origination of mortgage loans to low, very low, and moderate income homebuyers. The Board approved up to \$175 million in tax-exempt bonds (the 2019A Bonds) and up to \$25 million in taxable bonds (the 2019B Bonds). Based on the bond structure and current market conditions, staff is seeking approval for the issuance of Texas Department of Housing and Community Affairs, Residential Mortgage Revenue Bonds, Series 2019A (the 2019A Bonds). Staff is not recommending issuance of the 2019B Bonds at this time. The Board also delegated authority to staff to select the underwriting team for the 2019A Bonds. Jefferies was selected to serve as the senior managing underwriter, and J.P. Morgan, Piper Jaffray & Co., Ramirez & Co., Inc., and RBC Capital Markets were named as co-managers.

The Department has two active single family indentures, the Single Family Mortgage Revenue Bond Indenture, and the Residential Mortgage Revenue Bond (RMRB) Indenture. The 2019A Bonds will be issued under the RMRB Indenture and are expected to be rated AAA/AA+ by Moody's Investors Service, Inc. and Standard & Poor's Ratings Services, respectively. The 2019A Bonds will be tax-exempt, fixed rate bonds. Total proceeds (par plus premium) will not exceed \$175 million, and will be used to (i) purchase mortgage-backed securities (MBS), the principal and interest of which is guaranteed by Ginnie Mae or Fannie Mae, (ii) finance a portion of the down payment assistance, lender compensation, and second loan servicing fees related to the underlying mortgage loans, and (iii) pay a portion of the costs of issuance related to the 2019A Bonds. Bond proceeds are expected to be invested in a Guaranteed Investment Contract (GIC) until expended.

The bonds are expected to be issued as a modified traditional single family mortgage revenue bond structure, with serial bonds, term bonds, and Planned Amortization Class (PAC) bonds. The PAC bonds and a portion of the serial and term bonds are expected to be sold at a significant premium and will not be subject to redemption prior to the optional redemption date, currently expected to be July 1, 2028, other than to meet tax or other statutory requirements.

The 2019A Bonds are expected to price in early February 2019 and to close in March 2019. MBS can be purchased with proceeds of the 2019A Bonds until December 1, 2019, with the unexpended proceeds redemption occurring January 1, 2020. The Department currently averages approximately \$45 million per month in issuance of MBS backed by tax-exempt bond eligible loans. As such, bond proceeds are expected to be fully utilized well in advance of the unexpended proceeds redemption.

Borrower options for loans originated with proceeds of the 2019A Bonds are expected to include a low mortgage rate option for up to 30% of the proceeds; borrowers choosing this option do not receive down payment and closing cost assistance. The remaining proceeds will be used for mortgage loans that provide four points of down payment and closing cost assistance in the form of a 0%, non-amortizing, 30-year second loan that is due on sale or refinance, with a first mortgage at a higher rate than the low mortgage rate option.

The contribution by the Department for the 2019A Bonds will not exceed \$10.5 million to be used to fund down payment and closing cost assistance, to pay costs related to the acquisition of qualifying mortgage loans including the payment of lender compensation and servicing fees for second mortgage loans, and to pay all or a portion of the costs of issuance of the 2019A Bonds. The contribution will be funded from amounts on deposit in the RMRB indenture and other single family-related funds. Capitalized interest of up to \$2.5 million will be paid from the RMRB indenture as necessary.

A copy of the Exhibits for Resolution 19-022 can be found online at the Department's Board Meeting Information Center website: <http://www.tdhca.state.tx.us/board/meetings.htm>.

Staff recommends approval of Resolution 19-022.

RESOLUTION NO. 19-022

RESOLUTION AUTHORIZING THE ISSUANCE, SALE AND DELIVERY OF TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS RESIDENTIAL MORTGAGE REVENUE BONDS, SERIES 2019A; APPROVING THE FORM AND SUBSTANCE OF RELATED DOCUMENTS; AUTHORIZING THE EXECUTION OF DOCUMENTS AND INSTRUMENTS NECESSARY OR CONVENIENT TO CARRY OUT THE PURPOSES OF THIS RESOLUTION; AND CONTAINING OTHER PROVISIONS RELATING TO THE SUBJECT

WHEREAS, the Texas Department of Housing and Community Affairs (the "Department") has been duly created and organized pursuant to and in accordance with the provisions of Chapter 2306, Texas Government Code (the "Act"), as amended from time to time, for the purpose of providing for the housing needs of individuals and families of low, very low, and extremely low income and families of moderate income (as described in the Act as determined by the Governing Board of the Department (the "Board") from time to time) at prices they can afford; and

WHEREAS, the Act authorizes the Department: (a) to issue revenue bonds, to provide money to (i) make and acquire mortgage loans or participations therein, (ii) fund or increase the Department's reserves or funds (iii) pay the costs and expenses of issuing the bonds and (iv) pay interest on the bonds; and (b) to pledge all or part of the revenues, income or resources of the Department, including the revenues to be received by the Department from the mortgage loans or participations therein, to secure the payment of the principal, interest or redemption premium on the bonds; and

WHEREAS, the Department and The Bank of New York Mellon Trust Company, N.A., as trustee (the "Trustee"), have executed and delivered that certain Residential Mortgage Revenue Bond Trust Indenture dated as of November 1, 1987, as amended and supplemented from time to time (the "RMRB Indenture"), providing for the issuance from time to time by the Department of one or more series of its Residential Mortgage Revenue Bonds; and

WHEREAS, the Department has a single family mortgage purchase program (the "Program") to fund all or a portion of the Department's single family loan production; and

WHEREAS, pursuant to Resolution No. 17-003, the Board approved Program Guidelines setting forth the general terms of the mortgage loans to be originated under the Program (the "Mortgage Loans") and authorized execution and delivery of (i) a Mortgage Acquisition, Pooling and Servicing Agreement setting forth the terms under which Idaho Housing and Finance Association (the "Servicer"), will review, acquire, package and service the Mortgage Loans, and (ii) a Master Mortgage Origination Agreement in connection with the acceptance of new lenders in the Program; and

WHEREAS, Section 302 of the RMRB Indenture authorizes the issuance of additional Bonds for the purposes of acquiring Mortgage Loans or participations therein, payment of costs of issuance, funding of reserves, payments of certain Department expenses and refunding bonds; and

WHEREAS, the Board has determined to authorize the issuance of the Department's Residential Mortgage Revenue Bonds, to be known as its Residential Mortgage Revenue Bonds, Series 2019A (the "Bonds") pursuant to the RMRB Indenture for the purpose of providing funds to make and acquire qualifying mortgage loans through the purchase of mortgage backed securities ("Mortgage Certificates"), to provide down payment and closing cost assistance and to pay a portion of the costs of issuance; and

WHEREAS, the Board desires to authorize the execution and delivery of the Thirty-Third Supplemental Residential Mortgage Revenue Bond Trust Indenture (the "Supplemental Indenture") in substantially the form attached hereto relating to the Series 2019A Bonds; and

WHEREAS, the Board has further determined that the Department should enter into a Bond Purchase Agreement relating to the sale of the Bonds (the “Bond Purchase Agreement”) with Jefferies, as representative of the group of underwriters listed in the Bond Purchase Agreement (the “Underwriters”), in substantially the form attached hereto setting forth certain terms and conditions upon which the Underwriters will purchase the Bonds from the Department and the Department will sell the Bonds to the Underwriters; and

WHEREAS, the Board has determined to authorize the execution and delivery of a 2019 A Supplement to Depository Agreement relating to the Bonds (the “Depository Agreement”), by and among the Department, the Trustee and the Texas Treasury Safekeeping Trust Company, in substantially the form attached hereto to provide for the holding, administering and investing of certain moneys and securities relating to the Bonds; and

WHEREAS, the Board has been presented with a draft of a preliminary official statement to be used in the public offering of the Bonds (the “Official Statement”) and the Board desires to approve such Official Statement in substantially the form attached hereto; and

WHEREAS, the Board desires to authorize the execution and delivery of a Continuing Disclosure Agreement (the “Continuing Disclosure Agreement”) in substantially the form attached hereto between the Department and the Trustee; and

WHEREAS, the Board has determined to authorize the investment of a portion of the proceeds of the Bonds and any other amounts held under the RMRB Indenture with respect to the Bonds in one or more guaranteed investment contracts (the “GICs”) on or after the closing date or such other investments as the authorized representatives named herein may approve; and

WHEREAS, the Board desires to approve the use of an amount not to exceed \$10,500,000 of Department funds for any purpose authorized under the Act and the RMRB Indenture, including to provide down payment and closing cost assistance, to make and acquire qualifying mortgage loans, including payment of lender compensation, through the purchase of Mortgage Certificates and to pay a portion of the costs of issuance; and

WHEREAS, the Board desires to authorize the use of an amount not to exceed \$2,500,000 of funds on deposit under the RMRB Indenture to fund capitalized interest; and

WHEREAS, Chapter 1371, Texas Government Code, as amended (“Chapter 1371”), authorizes the Department to take other actions described in this Resolution related to issuance of the Bonds; and

WHEREAS, the Board desires to approve the forms of the Supplemental Indenture, the Bond Purchase Agreement, the Depository Agreement, the Official Statement, and the Continuing Disclosure Agreement in order to find the form and substance of such documents to be satisfactory and proper and the recitals contained therein to be true, correct and complete; and has determined to further its programs in accordance with such documents by authorizing the issuance of the Bonds, the execution and delivery of such documents and the taking of such other actions as may be necessary or convenient to carry out the purposes of this Resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BOARD OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS:

ARTICLE 1 ISSUANCE OF BONDS; APPROVAL OF DOCUMENTS

Section 1.1 Issuance, Execution and Delivery of the Bonds. That the issuance of any or all of the Bonds in one or more series or subseries and on a taxable or tax-exempt basis is hereby authorized, all under and in accordance with the RMRB Indenture, and that, upon execution and delivery of the Supplemental Indenture, the Authorized Representatives of the Department named in this Resolution are each hereby authorized to

execute, attest and affix the Department's seal to the Bonds and to deliver the Bonds to the Attorney General of Texas (the "Attorney General") for approval, the Comptroller of Public Accounts of the State of Texas (the "Comptroller") for registration and the Trustee for authentication, and thereafter to deliver the Bonds to or upon the order of the Underwriters.

Section 1.2 Authority to Approve Form of Documents, Determine Interest Rates, Principal Amounts, Maturities and Prices. That the Authorized Representatives of the Department are hereby authorized and empowered, in accordance with Chapter 1371, Texas Government Code, as amended, to fix and determine the interest rates, principal amounts and maturities of, and the prices at which the Department will sell the Bonds to the Underwriters, all of which determinations shall be conclusively evidenced by the execution and delivery by an Authorized Representative of the Bond Purchase Agreement; provided, however, that: (a) the interest rate on the Bonds shall not exceed 6.00% per annum; (b) the aggregate principal amount of the Bonds shall not exceed \$175,000,000; (c) the final maturity of the Bonds shall occur not later than January 1, 2051; (d) the price at which the Bonds are sold to the Underwriters shall not exceed 107% of the principal amount thereof; and (e) the Bonds shall be rated by a nationally recognized rating agency for municipal securities in one of the four highest rating categories for a long-term debt instrument. In no event shall the interest rate on the Bonds (including any default interest rate) exceed the maximum interest rate permitted by applicable law.

Section 1.3 Approval, Execution and Delivery of the Supplemental Indenture. That the form and substance of the Supplemental Indenture are hereby approved and that the Authorized Representatives are hereby authorized to execute, attest and affix the Department's seal to Supplemental Indenture, and to deliver the Supplemental Indenture to the Trustee.

Section 1.4 Approval, Execution and Delivery of the Bond Purchase Agreement. That the sale of the Bonds to the Underwriters pursuant to the Bond Purchase Agreement is hereby approved and that the Authorized Representatives are hereby authorized to execute, attest and affix the Department's seal to the Bond Purchase Agreement and to deliver the Bond Purchase Agreement to the Underwriters.

Section 1.5 Official Statement. That the Official Statement relating to the Bonds, in substantially the form presented to the Board, is hereby approved; that prior to the execution of the Bond Purchase Agreement, the Authorized Representatives, acting for and on behalf of the Board, are hereby authorized and directed to finalize the Official Statement for distribution by the Underwriters to prospective purchasers of the Bonds, with such changes therein as the Authorized Representatives may approve in order to permit such an Authorized Representative, for and on behalf of the Board, to deem the Official Statement relating to the Bonds final as of its date, except for such omissions as are permitted by Rule 15c2-12 of the Securities and Exchange Commission ("Rule 15c2-12"), such approval to be conclusively evidenced by the distribution of such Official Statement; and that within seven business days after the execution of the Bond Purchase Agreement, the Authorized Representatives, acting for and on behalf of the Board, shall cause the final Official Statement, in substantially the form of the Official Statement attached hereto, with such changes as such an Authorized Representative may approve, such approval to be conclusively evidenced by such Authorized Representative's execution thereof, to be provided to the Underwriters in compliance with Rule 15c2-12.

Section 1.6 Approval of Depository Agreement. That the form and substance of the Depository Agreement are hereby authorized and approved and that the Authorized Representatives are hereby authorized to execute, attest and affix the Department's seal to the Depository Agreement and to deliver the Depository Agreement to the Trustee and to the Texas Treasury Safekeeping Trust Company.

Section 1.7 Approval of Continuing Disclosure Agreement. That the form and substance of the Continuing Disclosure Agreement are hereby authorized and approved and that the Authorized Representatives are hereby authorized to execute, attest and affix the Department's seal to the Continuing Disclosure Agreement and to deliver the Continuing Disclosure Agreement to the Trustee.

Section 1.8 Approval of GIC Broker; Approval of Investment in GICs. That the Executive Director, the Acting Director, or the Director of Bond Finance and Chief Investment Officer of the Department is hereby authorized to select a GIC Broker, if any, and that the investment of funds held under the RMRB Indenture in connection with the Bonds in GICs is hereby approved and that the Executive Director, the Acting Director, or the Director of Bond Finance and Chief Investment Officer of the Department is hereby authorized to complete arrangements for the investment in GICs or such other investments as the Authorized Representatives may approve.

Section 1.9 Execution and Delivery of Other Documents. That the Authorized Representatives are each hereby authorized to execute, attest, affix the Department's seal to and deliver such other agreements, advance commitment agreements, assignments, bonds, certificates, contracts, documents, instruments, releases, financing statements, letters of instruction, notices of acceptance, 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, the RMRB Indenture, the Supplemental Indenture, the Bond Purchase Agreement, the Depository Agreement, and the Continuing Disclosure Agreement.

Section 1.10 Power to Revise Form of Documents. That, notwithstanding any other provision of this Resolution, the Authorized Representatives are each hereby authorized to make or approve such revisions in the form of the documents attached hereto as exhibits as, in the judgment of such Authorized Representative, or in the opinion of Bracewell LLP, Bond Counsel to the Department, may be necessary or convenient to carry out or assist in carrying out the purposes of this Resolution, such approval to be evidenced by the execution of such documents by the Authorized Representatives.

Section 1.11 Exhibits Incorporated Herein. That all of the terms and provisions of each of the documents listed below as an exhibit shall be and are hereby incorporated into and made a part of this Resolution for all purposes:

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| Exhibit A | – Supplemental Indenture |
| Exhibit B | – Bond Purchase Agreement |
| Exhibit C | – Official Statement |
| Exhibit D | – Depository Agreement |
| Exhibit E | – Continuing Disclosure Agreement |

Section 1.12 Authorized Representatives. The following persons are each hereby named as authorized representatives of the Department for purposes of executing, attesting, affixing the Department's seal to, and delivering the documents and instruments and taking the other actions referred to in this Article 1: the Chair or Vice Chair of the Governing Board, the Executive Director or Acting Director of the Department, the Director of Administration of the Department, the Director of Bond Finance and Chief Investment Officer of the Department, and the Secretary or Assistant Secretary to the Governing Board. Such persons are referred to herein collectively as the "Authorized Representatives." Any one of the Authorized Representatives is authorized to act individually as set forth in this Resolution.

Section 1.13 Department Contribution. That the contribution of Department funds in an amount not to exceed \$10,500,000 to be used for any purpose authorized under the Act and the RMRB Indenture, including to provide down payment and closing cost assistance, to make and acquire qualifying mortgage loans, including payment of lender compensation, through the purchase of Mortgage Certificates and to pay a portion of the costs of issuance is hereby authorized.

Section 1.14 Use of RMRB Indenture Funds and Other Funds. That the use of an amount not to exceed \$2,500,000 of funds on deposit under the RMRB Indenture to fund capitalized interest is hereby authorized.

ARTICLE 2 **APPROVAL AND RATIFICATION OF CERTAIN ACTIONS**

Section 2.1 Submission to the Attorney General of Texas. That the Board hereby approves the submission by the Department's Bond Counsel to the Attorney General of Texas, for his approval, of a transcript of the legal proceedings relating to the issuance, sale and delivery of the Bonds and execution and delivery of the Retained Mortgage Loan Agreement as a credit agreement.

Section 2.2 Engagement of Other Professionals. That the Executive Director, the Acting Director, or the Director of Bond Finance and Chief Investment Officer is authorized to engage an accounting firm to perform such functions, audits, yield calculations, verifications and subsequent investigations as necessary or appropriate to comply with the Bond Purchase Agreement and the requirements of the purchasers of the Bonds and Bond Counsel to the Department, provided such engagement is done in accordance with applicable State law.

Section 2.3 Certification of the Minutes and Records. That the Secretary and any Assistant Secretary to the Board are hereby authorized to certify and authenticate minutes and other records on behalf of the Department for its single family mortgage revenue bond program, the issuance of the Bonds and all other Department activities.

Section 2.4 Approval of Requests for Rating from Rating Agencies. That the Executive Director, the Acting Director, the Director of Bond Finance and Chief Investment Officer, and the Department's consultants are authorized to seek ratings from Moody's Investors Service, Inc. and Standard & Poor's Ratings Services, a Standard & Poor's Financial Service LLC business.

Section 2.5 Ratifying Other Actions. That all other actions taken or to be taken by the Executive Director and the Department's staff in connection with the issuance of the Bonds are hereby ratified and confirmed.

Section 2.6 Authorized to Invest Funds. That pursuant to Section 1371.102 and the Act, the Executive Director, the Acting Director, or the Director of Bond Finance and Chief Investment Officer is hereby authorized to undertake all appropriate actions required under the RMRB Indenture and the Depository Agreement and to provide for investment and reinvestment of all funds held under the RMRB Indenture in accordance with the RMRB Indenture.

ARTICLE 3 **CERTAIN FINDINGS AND DETERMINATIONS**

Section 3.1 Purpose of Bonds. That the Board hereby determines that the purpose for which the Department may issue the Bonds constitutes "public works" as contemplated by Chapter 1371, Texas Government Code, as amended.

ARTICLE 4 **GENERAL PROVISIONS**

Section 4.1 Limited Obligations. That the Bonds and the interest thereon shall be limited obligations of the Department payable solely from the trust estate pledged under the RMRB Indenture to secure payment of the bonds issued under the RMRB Indenture and payment of the Department's costs and expenses for its single family mortgage revenue bond program thereunder and under the RMRB Indenture, and under no circumstances shall the Bonds be payable from any other revenues, funds, assets or income of the Department.

Section 4.2 Non-Governmental Obligations. That the Bonds shall not be and do not create or constitute in any way an obligation, a debt or a liability of the State or create or constitute a pledge, giving or lending of the faith or credit or taxing power of the State.

Section 4.3 Purposes of Resolution. That the Board has expressly determined and hereby confirms that the issuance of the Bonds and the furtherance of the purposes contemplated by this Resolution accomplish a valid public purpose of the Department by providing for the housing needs of individuals and families of low, very low and extremely low income and families of moderate income in the State.

Section 4.4 Notice of Meeting. That this Resolution was considered and adopted at a meeting of the Board that was noticed, convened, and conducted in full compliance with the Texas Open Meetings Act, Chapter 551 of the Texas Government Code, and with §2306.032 of the Texas Government Code, regarding meetings of the Board.

Section 4.5 Effective Date. That this Resolution shall be in full force and effect from and upon its adoption.

[Execution page follows]

PASSED AND APPROVED this 17th day of January, 2019.

Chair, Governing Board

ATTEST:

Secretary to the Board

(SEAL)

EXHIBITS

ALL DOCUMENTS REFERRED TO IN THE FOREGOING RESOLUTION ARE ATTACHED TO THE ORIGINAL COPY OF SAID RESOLUTION, WHICH IS ON FILE IN THE OFFICIAL RECORDS OF THE DEPARTMENT, AND EXECUTED COUNTERPARTS OF SUCH EXHIBITS ARE INCLUDED IN THE OFFICIAL TRANSCRIPT OF PROCEEDINGS RELATING TO THE BONDS.