

AGENDA ITEM MEMO

BOARD MEETING DATE: August 10, 2023

TO: Board Members

THROUGH: Jeff Walker, Executive Administrator
Sergio Rey, Deputy Chief Financial Officer

FROM: Georgia Sanchez, Development Fund Manager

SUBJECT: Orrick, Herrington & Sutcliffe LLP Contract Amendment

ACTION REQUESTED

Consider authorizing the Executive Administrator to amend the outside counsel contract with Orrick, Herrington & Sutcliffe LLP by increasing the contract amount by \$65,000, for a total of \$515,000.

BACKGROUND

The Texas Water Development Board has an outside counsel contract with Orrick, Herrington & Sutcliffe LLP that expires on August 31, 2023. The maximum contract amount is currently \$450,000.

KEY ISSUES

When determining the contract amount, it was estimated that the firm could serve as bond counsel on as many as four bond transactions, including two with refunding components, and total issuance of \$495 million. The firm has served as bond counsel on three transactions, all with refunding components and higher-than-expected issuance amounts totaling \$627.5 million. Per the contract, the bond counsel costs are based in part on the amount issued, so the additional issuance amounts resulted in higher contract fees. Additionally, while the refunding transactions generate debt service savings, they are subject to an additional \$25,000 service fee.

RECOMMENDATION

To continue to receive bond counsel services through the end of the contract term, the Executive Administrator recommends increasing the contract with Orrick, Herrington & Sutcliffe LLP by \$65,000.