

HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY

10400 Detrick Avenue
Kensington, Maryland 20895
(240) 627-9425

Minutes

December 9, 2020

20-11

The monthly meeting of the Housing Opportunities Commission of Montgomery County was conducted via an online platform and teleconference on Wednesday, December 9, 2020, with moderator functions occurring at 10400 Detrick Avenue, Kensington, Maryland beginning at 4:00 p.m. Those in attendance were:

Present

Roy Priest, Chair
Frances Kelleher, Vice Chair
Richard Y. Nelson, Jr., Chair Pro Tem
Linda Croom
Jeffrey Merkwowitz
Jackie Simon

Absent

Pamela Byrd

Also Attending

Stacy L. Spann, Executive Director
Kayrine Brown
Zachary Marks
Charnita Jackson
Lynn Hayes
Heather Grendze
Jay Shepherd
Jennifer Arrington
Marcus Ervin
Ian Hawkins

Aisha Memon, General Counsel
Eamon Lorincz, Deputy General Counsel
Cornelia Kent
Fred Swan
Renee Harris
Matt Husman
Nicolas Deandreis
Kristyn Greco
Gio Kaviladze

Resident Advisory Board

Shawntel Reddix-Thomas

Commission Support

Patrice Birdsong, Spec. Asst. to the Commission

Guest

Toby Emerson
Shawntel Bacon
Sharyn Peod

Chair Priest opened the meeting with a welcome and roll call of Commissioners.

I. **Information Exchange**

- **Resident Advisory Board** - Shawntel Thomas-Reddix provided an update of the RAB November 20, 2020 meeting. Lynn Hayes, Director of Housing Resources, presented to the RAB the Administrative Changes to the Housing Choice Voucher. The RAB voted in favor of the revisions.
- **Community Forum** – Shawntel Bacon addressed the Board regarding her housing concerns. Toby Emerson addressed the Board about flooding concerns at his Kensington property. Staff stated that they will follow up with Mr. Emerson about possible solutions.

Executive Director's Report

- Nothing additional to add to the written report.

Commissioner Exchange

Chair Priest extended holiday well wishes to everyone on behalf of the Board of Commissioners.

- II. **Approval of Minutes** - The minutes were approved as submitted with a motion by Chair Pro Tem Nelson and seconded by Vice Chair Kelleher. Chair Pro Tem Nelson recommended that the Minutes of the Development and Finance Committee be removed and approved at the next meeting of the Development and Finance Committee. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Croom, Merkowitz, and Simon. Commissioner Byrd was necessarily absent and did not participate in the vote.
- A. **Approval of Minutes of November 4, 2020**
 - B. **Approval of Minutes of November 4, 2020 Administrative Session**
 - C. **Approval of Minutes of November 24, 2020 Special Session**

III. **CLOSED AND SPECIAL SESSION RATIFICATION**

- A. **Acceptance of HOC FY'20 Audited Financial Statements, Single Audit Report, and Management Letter**

The following resolution was adopted upon a motion by Chair Pro Tem Nelson and seconded by Commissioner Simon. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Croom, Merkowitz, and Simon. Commissioner Byrd was necessarily absent and did not participate in the vote.

RESOLUTION: 20-82R

RE: Acceptance of HOC FY'20 Audited Financial Statements, Single Audit Report, and Management Letter

WHEREAS, the independent auditors, CliftonLarsonAllen LLP, presented their report for FY'20, which included the FY'20 Audited Financial Statements, Single Audit Report, and Management Letter, to the Housing Opportunities Commission of Montgomery County (the "Commission");

WHEREAS, at a meeting held on November 24, 2020, the Commission reviewed the FY'20 Audited Financial Statements, Single Audit Report, and Management Letter;

WHEREAS, at a Special Session duly called and held on November 24, 2020, with a quorum participating, the Commission duly adopted Resolution 20-82, with Commissioners Priest, Kelleher, Nelson, Merkowitz, and Simon voting in approval, and with Commissioners Byrd and Croom being necessarily absent and not participating in the vote;

WHEREAS, by adopting resolution 20-82, the Commission accepted the FY'20 Audited Financial Statements, Single Audit Report, and Management Letter prepared by CliftonLarsonAllen LLP; and

WHEREAS, consistent with the Commission's Second Amended and Restated Bylaws, the Commission wishes to ratify and affirm, in a regular open meeting with a quorum participating, the action undertaken by the Commissioners in adopting Resolution 20-82 and any actions taken since November 24, 2020 to effectuate the actions contemplated therein.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that Resolution 20-82 and any subsequent actions taken in relation thereto are hereby ratified and affirmed.

IV. **CONSENT**

A. Revisions to HOC's Administrative Plan for the Housing Choice Voucher Program to Update Statutory Changes

The following resolution was adopted upon a motion by Vice Chair Kelleher and seconded by Chair Pro Tem Nelson. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Croom, Merkowitz, and Simon. Commissioner Byrd was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 20-83

RE: Revisions to HOC's Administrative Plan for the Housing Choice Voucher Program to Update Statutory Changes to the Project-Based Voucher Program as described in Chapter 22 of the Plan

WHEREAS, the Housing Opportunities Commission of Montgomery County desires to revise its Administrative Plan for the Housing Choice Voucher Program (the "Plan") to include statutory updates to the Project-Based Voucher Program as described in Chapter 22 of the Plan (the "Revisions"), as identified in the revised Plan attached hereto as Exhibit A; and

WHEREAS, a public comment period for the Revisions began on October 30, 2020 and concluded on November 30, 2020 with a public hearing.

NOW, THEREFORE, BE IT RESOLVED that the Housing Opportunities Commission of Montgomery County adopts the Revisions, as identified in the revised Plan attached hereto as Exhibit A;

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that the Executive Director, or his designee, is hereby authorized and directed, without any further action on its part, to take any and all other actions necessary and proper to carry out the actions contemplated herein.

B. Amendment of Approval to Increase the Obligation to Draw on the PNC Bank, N.A. Line of Credit to Refund and Redeem Single Family Bonds

The following resolution was adopted upon a motion by Chair Pro Tem Nelson and seconded by Commissioner Simon. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Croom, Merkowitz, and Simon. Commissioner Byrd was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 20-89

**RE: Amendment of Approval to Increase the
Obligation to Draw on the PNC Bank, N.A. Line of
Credit to Refund and Redeem Single Family Bonds**

WHEREAS, the Housing Opportunities Commission of Montgomery County (the "Commission") is a public body corporate and politic duly organized under Division II of the Housing and Community Development Article of the Annotated Code of Maryland, as amended, known as the Housing Authorities Law, and authorized thereby to issue its notes and bonds from time to time to fulfill its corporate purposes; and

WHEREAS, pursuant to its authority, the Commission has utilized the practice of issuing refunding bonds in the Single Family Mortgage Purchase Program (the "Program") to recycle and extend the life of volume cap it allocates to each bond issue and/or to refinance its outstanding bond debt at lower interest rates, thereby, minimizing negative arbitrage expenses to the Program; and

WHEREAS, the recycling is achieved by reserving mortgage principal repayments and prepayments to make new mortgage loans, net of those subject to statutory restrictions, and using the proceeds of a new bond issue to refund and redeem the prior outstanding bonds associated with the mortgage principal repayments and prepayments; and

WHEREAS, on November 4, 2020, by approving Resolution 20-80, the Commission approved a temporary increase of the Program's authorization to draw on the PNC Bank, N.A. Line of Credit ("PNC LOC") to refund bonds eligible for replacement refunding from \$5 million to \$10 million with the temporary increase expiring upon the closing of the Single Family bond issuance in the first quarter of 2021, and revert to up to \$5 million on a revolving basis in accordance with the terms of the PNC LOC; and

WHEREAS, Resolution 20-80 mistakenly included the incorrect interest rate and the Commission desires to correct the error.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that the Single Family Mortgage Purchase Program's draws on the PNC LOC to refund bonds eligible for replacement refunding shall be tax exempt draws, and shall be drawn in accordance with the terms of the PNC LOC, including the payment of interest by the Single Family Program at the tax exempt rate of 68.5% of 30-day LIBOR plus 59 basis points.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County authorizes the Executive Director, or his designee, without any further action on its part, to take any and all other actions necessary and proper to carry out the transaction and actions contemplated herein.

V. COMMITTEE REPORTS and RECOMMENDATIONS FOR ACTION

A. Development and Finance Audit Committee – Com. Simon, Chair

- 1. HOC Headquarters: Approval for the Executive Director to Execute Task Order to Engage Lerch, Early and Brewer for Legal Services**

Kayrine Brown, Deputy Director, and Jay Shepherd, Senior Financial Analyst, were the presenters.

The following resolution was adopted upon a motion by Commissioner Simon and seconded by Chair Pro Tem Nelson. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Croom, Merkowitz, and Simon. Commissioner Byrd was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 20-84

**RE: HOC Headquarters: Approval for the
Executive Director to Execute Task Order to
Engage Lerch, Early & Brewer for Legal Services**

WHEREAS, the Housing Opportunities Commission of Montgomery County (“HOC” or the “Commission”), has secured three lots located at 1324 and 1328 Fenwick Lane, Silver Spring, MD 20910, as the site of a new headquarters building projected to be approximately 85,000 gross square feet or the maximum allowed by the current zoning regulations (the “New HQ”); and

WHEREAS, on September 5, 2018, the Commission approved a predevelopment budget in the amount of \$2,116,000 for the initial feasibility design and entitlement of the New HQ and a draw on the \$60 million PNC Bank, N.A. Line of Credit to fund the first installment of predevelopment funding in the amount of \$264,500; and

WHEREAS, on May 6, 2020, the Commission approved a revised predevelopment budget in the amount of \$2,650,150 for the design and entitlement of the New HQ and a draw on the \$60 million PNC Bank, N.A. Line of Credit to fund the second installment of predevelopment funding in the amount of \$793,800; and

WHEREAS, in order to expedite the delivery of New HQ, reduce overall costs, and minimize development period risk, the Commission approved submitting an application for Mandatory Referral for the New HQ; and

WHEREAS, very few projects can utilize the Mandatory Referral process for obtaining necessary development approvals prior to receiving building permits, even fewer firms with specialized legal expertise were available to determine and help the Commission file and process the required applications based on the Mandatory Referral process; and

WHEREAS, On April 3, 2019, the Commission approved the pool of legal counsel consisting of 12 firms, which would assist HOC’s staff to navigate legal issues pertaining to its real estate development and financing concerns and to ensure that the Commission successfully executes transactions while complying with complex regulatory and contractual obligations; and

WHEREAS, a firm in the pool, Lerch, Early & Brewer (“LEB”), is uniquely qualified to perform the actual filing and processing of the project, based on the Mandatory Referral process that is to be used and the aggregate task orders for LEB under its pool contract will exceed \$250,000 and as such, in accordance with HOC’s Procurement Policy adopted on June 7, 2017, the Commission must approve the current Task Order; and

WHEREAS, LEB has estimated the cost to complete the associate legal land use work for the new HQ building to be approximately \$365,000, but Staff is requesting that the Commission approve an amount up to \$400,000 to include a contingency for any unforeseen issues that may arise before the project is approved.

NOW, THEREFORE, BE IT RESOLVED that the Housing Opportunities Commission of Montgomery County approves a Task Order under the current pool contract with Lerch, Early & Brewer for approximately \$400,000 to provide legal land use services for the entitlement of the HOC HQ development, including authorization for the Executive Director to execute said Task Order.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that the Executive Director, or his designee, is hereby authorized, without any further action on its part, to take any and all actions necessary and proper to carry out the transactions and actions contemplated herein, including the execution of any documents related thereto.

2. Stewartown: Approval of Final Development Plan; Formation of Ownership Entities, Admission of Investor Limited Partner, and Authorization for the Executive Director to Execute a Limited Partnership Agreement and General Contractor Contract for the Stewartown Homes Development

Kayrine Brown, Deputy Director, and Gio Kaviladze, Senior Financial Analyst, were the presenters.

The following resolution was adopted upon a motion by Commissioner Simon and seconded by Vice Chair Kelleher. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Croom, Merkowicz, and Simon. Commissioner Byrd was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 20-85

RE: Approval of Final Development Plan, Ratification of the Formation of Ownership Entities, Admission of Investor Member, Authorization for the Executive Director to Execute a Purchase and Sale Agreement and Close on the Purchase and Sale of the Property, and to Execute an Operating Agreement and General Contractor Contract for the Stewartown Homes Development

WHEREAS, the Housing Opportunities Commission of Montgomery County (“HOC” or the “Commission”) seeks to preserve Montgomery County’s existing affordable housing, including properties previously subsidized by Rental Assistance Payment (“RAP”) contracts and Section 236 financing facing growing sustainability challenges; and

WHEREAS, Stewartown Homes (the “Property”), located at 9310 Merust Lane, Gaithersburg, was built in 1977 under the Section 236 Program and consists of 94 townhome units, 19 of which were subsidized by a RAP contract, in twelve (12) buildings on three (3) parcels of land; and

WHEREAS, the Property, with the exception of ongoing capital improvements, has not had major renovations within the last twenty years; and

WHEREAS, the Commission approved a predevelopment plan at the May 2, 2018 Commission meeting to comprehensively renovate the Property in order to maximize its life and public purpose it delivers; and

WHEREAS, in January 2020 the Commission approved the selection of Harkins Builders as the general contractor for the renovation of the Property;

WHEREAS, the Property reached the end of its initial 15-year Low Income Housing Tax Credit ("LIHTC") compliance period, and staff recommends re-syndicating a new tax credit transaction in order to raise additional capital to finance the proposed renovation; and

WHEREAS, HOC formed and is currently the ultimate sole member of HOC at Stewartown Homes, LLC ("Stewartown LLC"), which will be the future owner entity of the Property; and

WHEREAS, HOC formed and is currently the sole member of HOC MM Stewartown Homes, LLC, ("Stewartown MM LLC"), which is the current sole member and planned managing member of Stewartown LLC; and

WHEREAS, HOC intends to negotiate an Operating Agreement with a tax credit investor affiliate of Boston Capital (the "Investor") for the admission of the Investor as a non-managing investor member of Stewartown LLC with a 99.99% interest; and

WHEREAS, staff has prepared the Final Development Plan for the Property identifying a total development cost of approximately \$38.5 million to be funded with the proceeds of HOC-issued tax-exempt bonds enhanced by FHA Risk Share mortgage insurance, HOC-issued short-term tax-exempt bonds, assignment and assumption by Stewartown LLC of an existing County HIF loan, 4% Low Income Housing Tax Credit ("LIHTC") equity, a seller note, and the preservation of affordability for 100% of the units at 60% of the area median income (the "Final Development Plan").

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that the Final Development Plan for the rehabilitation of the Property is hereby approved, which includes an estimated total development cost of up to \$38.5 million, the delivery of 94 townhome units, and the restriction of 100% of the units to those earning at or below an income averaged 60% of the area median income.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that the formation of Stewartown LLC and Stewartown MM LLC is hereby ratified.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County acting on behalf of itself and on behalf of Stewartown MM LLC, as its sole member, acting on behalf of itself and on behalf of Stewartown LLC, as its managing member, that it approves (1) the negotiation of the assignment and assumption of the existing County HIF loan by Stewartown LLC, and (2) the execution of related documents, including without limitation any amendments thereto required by Investor or Montgomery County, Maryland as lender so long as such amendments do not increase the principal sum of the existing County HIF loan.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County acting on behalf of itself and on behalf of Stewartown MM LLC, as its sole member, acting on behalf of itself and on behalf of Stewartown LLC, as its managing member, that it approves (1) the negotiation and execution of a Operating Agreement with the Investor for Stewartown LLC, (2) the admission of the Investor as a non-managing member of Stewartown LLC with a 99.99% interest, and (3) the execution of related documents, including without limitation tax credit recapture and other guarantees by Stewartown MM LLC and/or the Housing Opportunities Commission of Montgomery County as may be required by the Investor.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County acting on behalf of itself and on behalf of the current owner of the Property, MV Affordable Housing Associates Limited Partnership (the "Seller"), as its general partner and ultimate sole owner of its limited partner, and on behalf of Stewartown MM LLC, as its sole member, acting on behalf of itself and on behalf of Stewartown LLC, as its managing member, that it approves (1) the negotiation and execution of a Purchase and Sale Agreement, (2) the transfer of the Property from Seller to Stewartown LLC (3) the acquisition of the Property by Stewartown LLC, and (4) the execution of related documents, including without limitation assignment and assumption of existing HAP contracts and the existing management agreement.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County acting on behalf of itself and on behalf of the Seller, that the Seller may accept some or all of the purchase price for the sale of the Property in the form of a subordinated seller note.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County acting on behalf of itself and on behalf of Stewartown MM LLC, as its sole member, acting on behalf of itself and on behalf of Stewartown LLC, as its managing member, that it approves the negotiation and execution of a general contractor contract with Harkins Builders for the renovation of the Property.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County acting on behalf of itself and on behalf of Stewartown MM LLC, as its sole member, acting on behalf of itself and on behalf of Stewartown LLC, as its managing member, that the Executive Director of HOC, or his designee, is authorized, without any further action on their respective parts, to take any and all other actions necessary and proper to carry out the transactions and actions contemplated herein, including the execution of any documents related thereto.

- 3. Westside Shady Grove: Approval of a Final Development Plan; Authorization for the Executive Director to Accept the Assignment of Third-Party Contracts for the Development, Ratification of Formation of Additional Legal Entities, Authorization to Accept a Montgomery County Housing Initiative Fund Short-Term Bridge Loan of up to \$15 million, and Authorization to Advance Funds in an amount up to for the Payment to Secure Building Permits and Bind the Builder's Risk Insurance**

Kayrine Brown, Deputy Director, and Marcus Ervin, Housing Acquisitions Manager, were the presenters.

The following resolution was adopted upon a motion by Commissioner Simon and seconded by Chair Pro Tem Nelson. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Croom, Merkowitz, and Simon. Commissioner Byrd was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 20-86

RE: Approval of a Final Development Plan; Authorization for The Executive Director to Accept the Assignment of Third-Party Contracts for the Development, Ratification of Formation of Additional Legal Entities, Authorization to Accept a Montgomery County Housing Initiative Fund Short-Term Bridge Loan of up to \$15 Million, and Authorization to Advance Funds in an Amount

**up to for the Payment to Secure Building Permits
and Bind the Builder's Risk Insurance**

WHEREAS, on December 18, 2019, the Housing Opportunities Commission of Montgomery County ("HOC" or the Commission") completed the acquisition of the development parcel generally located on the west side of Crabbs Branch Way, south of Shady Grove Road and the Metro Access Road (the "Westside Property") that will serve as the location for the proposed 268-unit mixed-income and mixed-use development currently known as Building D; and

WHEREAS, the Westside Property is subjected to certain regulatory approvals, including an approval for the development of a stick-over-podium, mixed-use multifamily building on that portion of the Westside Property known as the "Multifamily Building D Property" or "Phase II Shady Grove," which is intended to include (i) a mix of residential dwelling units comprised of approximately 268 units, including 188 market-rate units (the "Market Rate Units"), and 80 affordable units, which include 13 units restricted to households with incomes at or below 65% of Area Median Income ("AMI") and 67 units restricted to households with incomes at or below 50% of AMI, (ii) approximately 22,000 square feet of retail space (of which 9,731 square feet is pre-leased to a national pharmacy chain), approximately 9,200 square feet of common amenity space, a courtyard with recreational facilities, and potentially a space to accommodate the relocation of HOC's Up-County Service Center, and (iii) a precast parking garage; and

WHEREAS, HOC is the sole member of the ownership entity known as HOC at West Side Shady Grove, LLC (the "Owner"); and

WHEREAS, HOC has formed additional wholly-owned subsidiary entities, HOC MM Westside Shady Grove, LLC (the "HOC Managing Member") and HOC EYA/BC Westside Shady Grove, LLC (the "JV Entity") and desires to assign the interests of the Owner to the JV Entity to create a legal structure that will better facilitate mezzanine or preferred equity financing at permanent conversion if necessary; and

WHEREAS, following such assignment, and pursuant to a separate resolution approved by the Commission, HOC desires to admit EYA/BA SGS MF D, LLC, an affiliate of EYA, LLC ("EYA") and The Bozzuto Group ("Bozzuto"), as a minority member of the JV Entity, with the HOC Managing Member serving as the managing member and majority member; and

WHEREAS, staff recommends approval of a Final Development Plan and related activities to advance the development efforts for the Westside Property; provided, however that staff will return to the Commission prior to the planned closing to obtain authorization for the Executive Director to execute a Guaranteed Maximum Price ("GMP") Contract with Bozzuto Construction Company; and

WHEREAS, affiliates of HOC's development partners have executed contracts with service providers to assist in the development and construction of the Westside Property (the "Third-Party Contracts"), and HOC wishes for such Third-Party Contracts to be assigned to the Owner; and

WHEREAS, HOC desires for the Owner to accept a Montgomery County Housing Initiative Fund Short-Term Bridge Loan of up to \$15M, which shall be repaid when the County Housing Production Trust Fund ("HPTF") or other permanent sources become available; and

WHEREAS, tax-exempt bond proceeds may not be advanced prior to the FHA Initial Endorsement to cover the cost for obtaining building permits, binding the Builder's Risk Insurance policy, and other related predevelopment expenses; and

WHEREAS, staff seeks authorization to advance funds in an amount up to \$1,600,000 from the FHA Risk Share Reserve account, which will be repaid at the closing of the construction financing to secure the building permits for the development to guarantee their receipt prior to closing and bind the required Builder's Risk Insurance prior to the financial closing in January 2021, and before insurance treaties renew in May 2021 due to uncertainties in the insurance market that may potentially result in higher premiums.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County, on its behalf and on behalf of the Owner as its ultimate managing member, that it approves the Westside Property final development plan and related activities to advance the development efforts including authorization for the Executive Director to accept the assignment of Third-Party Contracts for the Westside Property, and authorization for the Owner to accept a Montgomery County Housing Initiative Fund Short-Term Bridge Loan of up to \$15M, which shall be repaid when the County Housing Production Trust Fund (HPTF) or other permanent sources become available.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County, that it ratifies the formation of the Managing Member and JV Entity and that, on its behalf and on behalf of the Owner and the JV Entity, it approves the assignment of all of its membership interests in the Owner to the JV Entity.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County, that it authorizes a draw from the FHA Risk Share Reserve account in an amount up to \$1,600,000, which will be repaid at the closing of the construction financing to cover the cost for obtaining building permits and binding the Builder's Risk Insurance policy.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission Montgomery County, acting on behalf of itself and on behalf of the Owner, the JV Entity, and the HOC Managing Entity, as the ultimate managing member of each, authorizes the Executive Director of HOC, or his designee, without any further action on their respective parts, to take any and all other actions necessary and proper to carry out the transaction and actions contemplated herein.

4. Westside Shady Grove: Approval of the Financing Plan, Feasibility, Public Purpose and Bond Authorizing Resolution for Westside Shady Grove Apartments; Approval to Issue a Commitment and Loan to HOC at Westside Shady Grove, LLC for Development and Permanent Financing; and, Approval for the Borrower to Accept a Loan in Accordance with the Finance Plan

Kayrine Brown, Chief Investment and Real Estate Officer, and Jennifer Arrington, Assistant Director of Bond Management, were the presenters.

The following resolution was adopted upon a motion by Commissioner Simon and seconded by Commissioner Croom. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Croom, Merkowitz, and Simon. Commissioner Byrd was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 20-87

RE: Approval of the Financing Plan, Feasibility and Public Purpose for Westside Shady Grove Apartments; Authorization to Issue a Loan Commitment to HOC at Westside Shady Grove, LLC

for Acquisition, Construction and Permanent Financing for up to \$100 million; and, Authorization for the Borrower to Accept Loan in Accordance with the Finance Plan

WHEREAS, the Housing Opportunities Commission of Montgomery County (“HOC” or the “Commission”) is a public body corporate and politic duly organized under Division II of the Housing and Community Development Article of the Annotated Code of Maryland, as amended, known as the Housing Authorities Law, and authorized thereby to effectuate the purpose of providing affordable housing, including providing for the acquisition, construction, rehabilitation and/or permanent financing or refinancing (or a plan of financing) of multifamily rental housing properties which provide a public purpose; and

WHEREAS, Westside Shady Grove Apartments (the “Property”) will be a 268-unit mixed-income, mixed-use residential rental community to be located at 8005 Gramercy Boulevard in Rockville, Maryland; and

WHEREAS, the Property will be developed and owned by a single purpose entity known as HOC at Westside Shady Grove, LLC (“Borrower”); and

WHEREAS, the Commission will serve as the ultimate managing member and majority owner of the Borrower through a wholly owned subsidiary named HOC MM Westside Shady Grove, LLC (the “HOC Member”), the managing member of HOC EYA/BC Westside Shady Grove, LLC (the “Joint Venture Entity”), the current sole member of the Borrower (it being understood that a minority member will be admitted to the Joint Venture Entity pursuant to a separate resolution); and

WHEREAS, the Borrower proposes that the Property provide a 30% affordability component, whereby 25% of its units will be set aside for households earning no more than 50% of the Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area Median Income (“AMI”) and 5% of its units will be set aside for households earning no more than 65% AMI (altogether, the “Public Purpose”), which Public Purpose will be memorialized with binding affordability covenants recorded in the real property records for the Property; and

WHEREAS, on July 1, 2020, the Commission adopted a Bond Authorizing Resolution for the issuance of a tax-exempt loan facility with PNC Bank, National Association (hereinafter “PNC”) for up to \$100 million for the purpose of recycling volume cap by redeeming certain outstanding bonds of the Commission and the Community Development Administration of the Maryland Department of Housing and Community Development (the “CDA”) that were eligible to be redeemed from repayments of mortgage loans on outstanding bonds of the Commission and of the CDA; and

WHEREAS, the Commission, by receiving the tax-exempt loan from PNC, recycled such repayments of mortgage loans on outstanding bonds of the Commission and CDA in order to issue bonds to fund the acquisition, construction and equipping of the Property; and

WHEREAS, on December 9, 2020, the Commission approved, among several actions, the Final Development Plan, totaling \$124 million, and the Borrower’s acceptance of a Montgomery County Housing Initiative Fund short-term bridge loan during construction for approximately \$15 million (hereinafter, the “HIF Loan”); and

WHEREAS, staff explored a variety of options for the acquisition, construction and permanent financing of the Property, and determined to use a number of sources for the \$124 million transaction, including (1) the

issuance of long-term, tax-exempt refunding bonds in an amount up to \$100 million of which proceeds will fund a mortgage loan for costs related to the acquisition, construction, and permanent financing of the Property, credit enhanced by the FHA Risk Sharing Program with a loan term of 34 years, including interest only for no more than 42 months and a 40-year amortization upon conversion (“Mortgage Loan”); (2) HOC and developer equity estimated at \$7.7 million with HOC’s equity to be no more than \$5.5 million; (3) the HIF Loan (which, if approved, may be replaced with a Montgomery County Housing Production Fund loan); and, (4) gap financing, likely a mezzanine loan, in the approximate amount of \$19 million, required for the Mortgage Loan’s permanent conversion that will be sourced and presented to the Commission for approval at a future date (collectively, the “Financing Plan”); and

WHEREAS, a review of the transaction has been completed and it has been determined that given the financial commitments to the Property and its operating projections, this transaction is believed to be feasible (“Feasibility”) and the Commission wishes to issue a loan commitment and the Borrower wishes to accept the loan in accordance with the Financing Plan.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that the Financing Plan, Feasibility, and Public Purpose, as recommended by staff and as described herein, is hereby approved and that the staff is hereby authorized to proceed with the review and processing of the necessary financing applications and other documentation.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County authorizes the issuance of a commitment for the Mortgage Loan in an amount up to \$100,000,000 (the “Commitment”), which Mortgage Loan will be credit enhanced by FHA Risk Share Mortgage Insurance, pursuant to the Risk Sharing Agreement between the Commission and the U.S. Department of Housing and Urban Development (“HUD”), of which the Commission and HUD shall both assume 50% of the risk for the transaction, and will have a term of 34-years, including up to 42 months of interest only during construction, and a 40-year amortization upon conversion to permanent.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County, in its capacity as lender under the Mortgage Loan, approves the closing of the Mortgage Loan transaction upon satisfaction of the terms of the Commitment and disbursement of the proceeds of such Mortgage Loan as and when set forth in the Building Loan Agreement and other Mortgage Loan documents;

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County, acting on behalf of itself and on behalf of the Borrower as the ultimate managing member of its sole member, accepts the Mortgage Loan.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County approves providing the Commission’s equity for the transaction, as co-developer, in an amount of no more than \$5.5 million to be funded from the Commission’s Opportunity Housing Reserve Fund.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County, acting on behalf of itself and on behalf of the Managing Member of the Borrower, acting for itself and on behalf of Borrower, that the Executive Director, or a duly appointed designee of the Executive Director, is hereby authorized, without any further action on their respective parts, to execute such other documents, including without limitation guarantees from HOC required by Borrower’s lenders, and to take any and all other actions, in each case as necessary and proper, in the Executive Director’s judgment, to carry out the Financing Plan and the transaction and actions contemplated herein.

RESOLUTION NO.: 20-87^B

Re: Adoption of an Authorizing Resolution for the Issuance of 2021 Series A Multifamily Housing Development Bonds for the Purpose of Refunding a Certain Tax-Exempt Loan Originated by PNC Bank, National Association in order to use the Transferred Proceeds thereof to Finance West Side Shady Grove and for Approval of Certain Actions relating to the financing of West Side Shady Grove.

A RESOLUTION OF THE HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY AUTHORIZING THE ISSUANCE AND SALE OF A SERIES OF THE COMMISSION'S MULTIFAMILY HOUSING DEVELOPMENT BONDS 2021 SERIES A (THE "2021 A BONDS"), IN A TOTAL AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$100,000,000 FOR THE PURPOSE OF REFUNDING THE TAX-EXEMPT LOAN ORIGINATED BY PNC BANK, NATIONAL ASSOCIATION (THE "RECYCLING FACILITY") AND TO USE THE TRANSFERRED PROCEEDS THEREOF TO FINANCE A MORTGAGE LOAN TO BE INSURED UNDER THE FHA RISK-SHARING PROGRAM FOR THE ACQUISITION, CONSTRUCTION AND EQUIPPING OF WEST SIDE SHADY GROVE APARTMENTS, A MULTIFAMILY RESIDENTIAL RENTAL PROJECT FOR OCCUPANCY BY PERSONS OF ELIGIBLE INCOME TO BE OWNED BY HOC AT WESTSIDE SHADY GROVE, LLC; AUTHORIZING THE EXECUTION AND DELIVERY OF A SERIES INDENTURE, CERTAIN TAX-RELATED DOCUMENTS, A DISCLOSURE AGREEMENT AND ANY AND ALL RELATED DOCUMENTS; APPROVING THE PREPARATION, EXECUTION AND DISTRIBUTION OF PRELIMINARY AND FINAL OFFERING DOCUMENTS RELATING TO THE FINANCING; AUTHORIZING THE EXECUTION OF ANY OTHER DOCUMENTS NECESSARY FOR THE ISSUANCE OF THE 2021 A BONDS AND THE ACCOMPLISHMENT OF THE FINANCING PLAN DESCRIBED HEREIN; AUTHORIZING THE CHAIRMAN, VICE CHAIRMAN OR CHAIRMAN PRO TEM AND EXECUTIVE DIRECTOR OR OTHER AUTHORIZED REPRESENTATIVE TO PROCEED WITH THE SALE OF THE 2021 A BONDS TO WELLS FARGO BANK, NATIONAL ASSOCIATION AND PNC CAPITAL MARKETS LLC, AS CO-SENIOR MANAGERS, AND TO EXECUTE AND DELIVER A CONTRACT OF PURCHASE IN CONNECTION WITH SUCH SALE; AUTHORIZING THE EXECUTIVE DIRECTOR OR OTHER AUTHORIZED REPRESENTATIVE TO ESTABLISH THE TERMS RELATING TO THE 2021 A BONDS AND TO MAKE ONGOING DETERMINATIONS RELATING THERETO; APPOINTING THE FINANCIAL ADVISOR AND BOND COUNSEL FOR THE 2021 A BONDS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Housing Opportunities Commission of Montgomery County (the "Commission") is a public body corporate and politic duly organized under Division II of the Housing and Community Development Article of the Annotated Code of Maryland, as amended, known as the Housing Authorities Law (the "Act"), and authorized thereby to issue its notes and bonds from time to time to fulfill its corporate purposes; and

WHEREAS, the Act declares that there exists within Montgomery County (the "County") a critical shortage of decent, safe and sanitary dwelling accommodations available to rent which "persons of eligible income" (within the meaning of the Act) can afford; and

WHEREAS, the Act empowers the Commission to make mortgage loans to qualified sponsors to provide for the construction, rehabilitation and financing of multifamily residential housing units in the County for occupancy by persons of eligible income and to perform any other duties that the Commission considers necessary in carrying out the purposes of the Act; and

WHEREAS, the Commission, in furtherance of the purposes of the Act, has established a program (the “Program”) to provide for the financing of mortgage loans through the issuance of its multifamily housing bonds; and

WHEREAS, pursuant to the Act and the Program, the Commission entered into the Trust Indenture, dated as of November 1, 1996, as supplemented and amended (the “Trust Indenture”), by and between the Commission and U.S. Bank National Association, as successor trustee, providing for the issuance of bonds (the “Bonds”) from time to time in accordance with the provisions thereof and of any series indenture specifically relating to any such series of Bonds issued thereunder; and

WHEREAS, the proceeds received from the issuance and sale of Bonds under the Trust Indenture are used to make, purchase or finance mortgage loans (each, a “Mortgage Loan,” and collectively, the “Mortgage Loans”) or finance Mortgage Loans through the purchase of guaranteed mortgage securities; and

WHEREAS, the pledges and assignments made pursuant to the Trust Indenture and the provisions, covenants and agreements therein set forth to be performed by or on behalf of the Commission are for the equal benefit, protection and security of the owners of any and all of the Bonds, each of which, regardless of the time of its issue or maturity, shall be of equal rank without preference, priority or distinction over any other thereof except as expressly provided in the Trust Indenture, with any Series of Bonds which are not to be on parity with the other Bonds issued under the Indenture to be provided for by a supplemental indenture; and

WHEREAS, the Commission previously entered into a tax-exempt loan transaction with PNC Bank, National Association (“PNC”) pursuant to which PNC loaned to the Commission an aggregate principal amount of \$100,000,000, the proceeds of which were used in connection with the redemption of certain outstanding bonds of the Commission and the Community Development Administration of the Maryland Department of Housing and Community Development (the “CDA”) that were eligible to be redeemed from repayments of mortgage loans on outstanding bonds of the Commission and of the CDA; and

WHEREAS, the Commission, by receiving the loan from PNC, recycled such repayments of mortgage loans on outstanding bonds of the Commission and the CDA in order to issue bonds to fund the acquisition, construction and equipping of West Side Shady Grove (the “Development”), all in accordance with the financing plans approved by the Commission in connection with the Development under separate resolutions adopted by the Commission on September 4, 2019, December 5, 2019 (as ratified on December 11, 2019), and July 1, 2020, and in accordance with the additional financing plans set forth in this Resolution and other resolutions that may be adopted by the Commission (collectively, the “Financing Plan”); and

WHEREAS, the Commission has determined to issue its tax-exempt Multifamily Housing Development Bonds, 2021 Series A (the “2021 A Bonds”) pursuant to the Trust Indenture and the Series Indenture Providing for the Issuance of Multifamily Housing Development Bonds, 2021 Series A (the “2021 A Series Indenture”), to make moneys available for the refunding of the Recycling Facility in order to use the transferred proceeds thereof for the acquisition, construction and equipping of the Development, to be owned and operated by HOC at Westside Shady Grove, LLC (the “Borrower”), a joint venture controlled by the Commission; and

WHEREAS, if necessary, the Commission may make a deposit to the debt service reserve fund created pursuant to the 2021 A Series Indenture, in accordance with the Financing Plan; and

WHEREAS, the costs of issuance of the 2021 A Bonds will be paid from the Borrower’s development budget; and

WHEREAS, pursuant to the 2021 A Series Indenture, the 2021 A Bonds shall be secured solely by the proceeds thereof or funds on deposit in the funds and accounts created under the 2021 A Series Indenture and not by any other moneys, funds or accounts held under the Trust Indenture, except to the extent that any such moneys are subject to transfer or withdrawal free and clear of the lien of the Trust Indenture upon provision of a Cash Flow Certificate in accordance with the Trust Indenture. The proceeds or revenues received in connection with the 2021 A Bonds shall not constitute security for a source of payment of any other Bonds outstanding or hereinafter issued under or entered into in accordance with the Trust Indenture; and

WHEREAS, the Mortgage Loan financed with the proceeds of the 2021 A Bonds (the “2021 A Mortgage Loan”) will be endorsed for federal insurance under the Risk-Sharing Agreement, dated September 23, 1994 (the “Risk-Sharing Agreement”), by and between the Commission and the Secretary of the U.S. Department of Housing and Urban Development (“HUD”), pursuant to which Risk-Sharing Agreement, the Commission will reimburse HUD for its losses under the 2021 A Mortgage Loan in an amount not greater than 50% of the outstanding principal balance of the 2021 A Mortgage Loan; and

WHEREAS, in connection with the issuance of the 2021 A Bonds and the accomplishment of the Financing Plan, the Commission anticipates entering into various documents, including, but not limited to, the 2021 A Series Indenture and, as hereinafter defined, the Offering Documents, the Contract of Purchase, the Tax-Related Documents, the Disclosure Agreement and certain other documents relating to the sale of the 2021 A Bonds, and the financing of the Development.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County:

1. 2021 A Bonds. The 2021 A Bonds are hereby authorized to be issued in an aggregate principal amount not to exceed \$100,000,000 to carry out the purposes under the Program as described above. The 2021 A Bonds shall be designated as set forth in the recitals hereto, or such additional series or subseries designations as approved by the Executive Director, in consultation with the Financial Advisor and Bond Counsel to the Commission. The 2021 A Bonds are to be issued pursuant to the terms of the Trust Indenture and the 2021 A Series Indenture and shall be limited obligations of the Commission, secured by and payable solely from moneys and other assets pledged therefor under the 2021 A Series Indenture, including, without limitation, the 2021 A Mortgage Loan.

2. Approval of Financing Plan. The Commission hereby approves the Financing Plan as described above pursuant to the terms and conditions to be set forth in the documents approved hereby.

3. Series Indenture. The Chairman, the Vice Chairman, or the Chairman Pro Tem, and the Executive Director of the Commission or any authorized designee of the Executive Director are hereby authorized and directed to execute and deliver the 2021 A Series Indenture in such form or forms as shall be approved by such officers, the execution of such 2021 A Series Indenture being conclusive evidence of such approval and of the approval of the Commission, and the Secretary-Treasurer of the Commission, or any other authorized officer of the Commission (an “Authorized Officer”), is hereby authorized and directed to affix the seal of the Commission to the 2021 A Series Indenture and to attest the same.

4. Tax-Related Documents. The Chairman, the Vice Chairman, the Chairman Pro Tem and the Executive Director of the Commission are hereby authorized and directed to execute and deliver a Tax Regulatory Agreement and No Arbitrage Certificate and other documents (collectively, the “Tax-Related Documents”) restricting the application of the proceeds of the 2021 A Bonds and the use and occupancy of the Development in such forms as shall be prepared by Bond Counsel and approved by the Chairman, the

Vice Chairman, the Chairman Pro Tem or the Executive Director, the execution of the Tax-Related Documents being conclusive evidence of such approval and of the approval of the Commission. The Chairman, the Vice Chairman, the Chairman Pro Tem or the Executive Director of the Commission is hereby further authorized and directed to execute and deliver on behalf of the Commission Internal Revenue Service Form 8038 relating to the 2021 A Bonds as prepared by Bond Counsel.

5. Disclosure Agreement. The Commission hereby authorizes and approves the execution and delivery of a continuing disclosure agreement (the "Disclosure Agreement") related to the 2021 A Bonds, in such form as may be approved by the Chairman, the Vice Chairman or the Chairman Pro Tem and the Executive Director of the Commission, their execution and delivery of the Disclosure Agreement constituting conclusive evidence of such officer's approval of the Disclosure Agreement and the approval of the Commission.

6. 2021 A Mortgage Loan; Real Estate Documents. The Commission hereby authorizes and approves the financing of the 2021 A Mortgage Loan which will be endorsed for federal insurance under the Risk-Sharing Agreement, pursuant to which the Commission will reimburse HUD for its losses under the 2021 A Mortgage Loan in an amount not greater than 25% of the outstanding principal balance of the 2021 A Mortgage Loan. The Commission hereby further authorizes and approves the preparation, execution and delivery of any and all real estate documents (the "Real Estate Documents") relating to the acquisition and construction of the Development, in its capacity as issuer of the 2021 A Bonds and in its capacity as the managing member of the Borrower.

7. Offering Documents. The Commission hereby authorizes and approves the preparation and distribution of a preliminary offering document of the Commission and the preparation, execution and distribution of a final offering document (collectively, the "Offering Documents"), each relating to the 2021 A Bonds, in such forms as may be approved by the Chairman, the Vice Chairman or the Chairman Pro Tem and the Executive Director of the Commission, their execution and delivery of the Offering Documents constituting conclusive evidence of such officer's approval of the Offering Documents and the approval of the Commission.

8. Sale of 2021 A Bonds. The Chairman, the Vice Chairman, the Chairman Pro Tem, the Executive Director or other Authorized Representative of the Commission is authorized to proceed with the sale of the 2021 A Bonds to Well Fargo Bank, National Association and PNC Capital Markets LLC or such other underwriter or to any other entity as shall be in the best interest of the Commission as determined by the Chairman, the Vice Chairman, the Chairman Pro Tem, the Executive Director or other Authorized Representative of the Commission.

9. Contract of Purchase. The Chairman, the Vice Chairman, the Chairman Pro Tem, the Executive Director or other Authorized Representative of the Commission is authorized to execute a contract of purchase and/or any other form of purchase agreement (the "Contract of Purchase") in connection with the issuance, purchase and sale of the 2021 A Bonds.

10. Terms; Ongoing Determinations. The Executive Director or other Authorized Representative of the Commission, as the case may be, is hereby authorized, without further action of or authority from the Board of Commissioners to establish the dates, maturities, interest payment dates, denominations, terms of redemption, registration privileges, security and other terms, and to approve the interest rates on the 2021 A Bonds, all of the foregoing to be specified in the 2021 A Series Indenture. The Executive Director or other Authorized Representative of the Commission, as the case may be, is hereby authorized, without further

action of or authority from the Board of Commissioners, to perform any act, to execute any documents, and is hereby authorized, from time to time during the period the 2021 A Bonds are outstanding, to make ongoing determinations, as may be required by the terms of the 2021 A Series Indenture and any other documents relating to the 2021 A Bonds and the 2021 A Mortgage Loan, including, but not limited to, the giving and withholding of consents, the selection of certain providers, the determination to permit the prepayment of the 2021 A Mortgage Loan and the refunding and redemption of the 2021 A Bonds and/or other Bonds, and the Executive Director or other Authorized Representative of the Commission, as the case may be, is further authorized to execute any and all documents evidencing such determinations as may be deemed necessary and proper.

11. Other Action. The Chairman, the Vice Chairman, the Chairman Pro Tem, the Executive Director or other Authorized Representative of the Commission is hereby authorized and directed to execute and deliver any and all additional documents and instruments necessary or proper to be executed and delivered and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated by this Resolution relating to the 2021 A Bonds and the accomplishment of the Financing Plan.

12. Appointment of Financial Advisor and Bond Counsel. Caine Mitter & Associates Incorporated is hereby appointed as Financial Advisor, and Barclay Damon LLP, New York, New York, is hereby appointed as Bond Counsel in connection with the issuance of the 2021 A Bonds.

13. No Personal Liability. No stipulation, obligation or agreement herein contained or contained in the 2021 A Bonds, the 2021 A Series Indenture, the Contract of Purchase, the Tax-Related Documents, the Offering Documents, the Disclosure Agreement, the Real Estate Documents, or in any other agreement or document executed on behalf of the Commission shall be deemed to be a stipulation, obligation or agreement of any Commissioner, officer, agent or employee of the Commission in his or her individual capacity, and no such Commissioner, officer, agent or employee shall be personally liable on the 2021 A Bonds or be subject to personal liability or accountability by reason of the issuance thereof.

14. Action Approved and Confirmed. All acts and doings of the officers of the Commission which are in conformity with the purposes and intent of this Resolution and in furtherance of the issuance of the 2021 A Bonds and the accomplishment of the Financing Plan are hereby approved, and the execution, delivery and performance of the documents and agreements authorized hereby are in all respects approved and confirmed.

15. Severability. If any provision of this Resolution shall be held or deemed to be illegal, inoperative or unenforceable, the same shall not affect any other provision hereof or cause any other provision hereof to be invalid, inoperative or unenforceable to any extent whatsoever.

16. Effective Date. This Resolution shall take effect immediately.

Based upon this report and there being no further business to come before this session of the Commission, the open session adjourned at 5:49 p.m. and reconvened in closed session at approximately 6:00 p.m.

In compliance with Section 3-306(c)(2), General Provisions Article, Maryland Code, the following is a report of the Housing Opportunities Commission of Montgomery County's closed session held on December 9, 2020 at approximately 6:00 p.m. via an online platform and teleconference, with moderator functions occurring at 10400 Detrick Avenue, Kensington, MD 20895. The meeting was closed under the authority of Sections 3-305(b)(3) and 3-305(b)(13) to discuss potential real property acquisitions and the confidential commercial and financial terms of a real estate transaction.

The meeting was closed on a motion by Vice Chair Kelleher, seconded by Chair Pro Tem Nelson, with Commissioners Priest, Kelleher, Nelson, Croom, Merkowitz, and Simon unanimously voting in approval. Commissioner Byrd was necessarily absent and did not participate in the vote. The following persons were present during the closed session: Roy Priest, Frances Kelleher, Richard Y. Nelson, Jr., Linda Croom, Jeffrey Merkowitz, Jackie Simon, Stacy Spann, Aisha Memon, Kayrine Brown, Zachary Marks, Marcus Ervin, Nathan Bovellev, Leidi Reyes, Jennifer Arrington, Cornelia Kent, Claire Kim, Gail Willison, Vivian Benjamin, and Kristyn Greco.

In closed session, the Commission discussed potential acquisitions of real property and the confidential commercial and financial terms of a real estate transaction. The following actions were taken:

1. With a quorum present, the Commission duly adopted Resolution 20-88AS, with Commissioners Roy Priest, Frances Kelleher, Richard Y. Nelson, Jr., Linda Croom, Jeffrey Merkowitz, and Jackie Simon voting in approval, which approved the following for a certain real estate transaction in mid-Montgomery County: (1) the execution of an operating agreement; and (2) the execution of a development agreement. Commissioner Byrd was necessarily absent and did not participate in the vote.
2. The Commission received an update on a potential acquisition of real property located in southern Montgomery County. The Commission agreed to proceed with the acquisition; no resolution was presented or passed.
3. The Commission received an update on a potential acquisition of real property located in mid-Montgomery County. No decision was made and there was no resolution presented or passed.

The closed session was adjourned at 7:35 p.m.

Respectfully submitted,

Stacy L. Spann
Secretary-Treasurer

/pmb

Attachment:

1 – Exhibit A – HCVP Revisions (Chapter 22)

Approved: January 13, 2021

Proposed Revisions to
HOC's Administrative Plan for the Housing Choice Voucher Program

Please note: Existing language is in **BLACK**, proposed changes are in **RED**, and proposed deletions are shown with ~~strikethrough~~.

Chapter 22

HOUSING CHOICE VOUCHER PROJECT-BASED PROGRAM

[24 CFR 983]

A. OVERVIEW

1. Purpose of Program: The program goals for the Project-Based Voucher (PBV) Program are:

1. To contribute to the improvement and long-term viability of the area's housing stock.
2. To increase the supply of affordable housing and location choice for very low-income households.
3. To integrate housing and supportive services such as education, case management, job training, and day care to help families and individuals achieve stability and self-reliance.
4. To promote the coordination and leveraging of resources of public, semi-public, or nonprofit agencies with compatible missions.

2. Program Elements:

1. A PHA may attach up to 20 percent of its voucher baseline ~~budget~~ to PBV units. Additionally, the Housing Opportunity Through Modernization Act of 2016 (HOTMA) authorizes the PHA to project-base an additional 10% of its baseline above the 20% program limit for HAP Contracts executed on or after April 18, 2017. The additional units must fall into at least one of the following eligible categories:
 - a. The units are specifically made available to house individuals and families who meet the definition of homeless under section 103 of the McKinney-Vento Homeless Assistance Act and contained in the Continuum of Care Interim Rule at 24 CFR 578.3
 - b. The units are specifically made available to house families that are comprised of or include a veteran.
 - c. The units provide annual supportive services to persons with disabilities or elderly persons. Potential services may include meal service, housekeeping aid, personal aid, transportation services, health-related services, case management, child care, educational services, employment services, job training, counseling and financial literacy. The service provision must be clearly defined at the time of the application and will be considered in addition to other criteria.

- d. The units are located in a census tract with a poverty rate of 20% or less, as determined in the most recent American Community Survey 5-year Estimates. The units eligible for the additional 10% exception category may be distributed among one, all, or a combination of the categories as long as the total number of units does not exceed the 10% cap.
2. The units may be new construction, rehabilitated or existing units.
 3. ~~Not more than~~ The greater of 25 units or 25 percent of the units in any building may be assisted with PBV. The exceptions to this limitation are for single-family properties (defined as 1-4 units in a building) and “excepted units” in a multi-family building. Excepted units are those that are specifically made available for elderly ~~or disabled~~ families or families eligible to receiveing supportive services.
 4. The location of PBV units must be consistent with the goals of deconcentrating poverty and expanding housing and economic opportunities. For HAP Contracts executed on or after April 18, 2017, the maximum amount of PBV assistance may be increased to the greater of 25 units or 40% of the units in the building. The building must be located in a census tract with a poverty rate of 20% or less as determined in the most recent American Community Survey 5-Year Estimates.

3. Requirements for Participation:

1. **Competitive Selection Process:** HOC must follow a competitive selection process as described in the regulations at 24 CFR §983.51. Exceptions to the competitive selection process are permitted on a case by case basis, as described in item 3 of this section.
2. Developers/Owners Proposal: Developers/owners must submit a proposal for PBV assistance in response to a Request for Proposals (RFP) issued by HOC as part of the competitive selection process described in item 1, above.
3. **Non-Competitive Selection Process:** As per the Housing Opportunity Through Modernization Act of 2016 (HOTMA) HOC may, by amendment to this Administrative Plan, from time to time attach PBV assistance to units in a project in which HOC has an ownership interest or over which HOC has control, without following a competitive selection process. Use of this non-competitive selection exception requires HOC’s engagement in an initiative to improve, develop, or replace a public housing property or site.

- a. PHA ownership interest. In order to qualify for this exception to use a non-competitive selection process for receipt of PBV assistance, the units which receive the assistance must be in a project in which HOC has an ownership interest or over which HOC has control. For the purposes of this exception, an “ownership interest” is not limited to the definition of “PHA owned” as defined herein or otherwise by HUD, and does include any HOC connection to a project where HOC, its officers, employees, or agents hold any direct or indirect interest in the project in which the units are located, including, but not limited to, an interest as any of the following:
 - i. Titleholder;
 - ii. Lessee;
 - iii. Stockholder;
 - iv. Member, or general or limited partner;
 - v. Member of a limited liability corporation; or
 - vi. Lessor of the ground lease for the land upon which the PBV project is located or will be constructed.

b. Other conditions for use of the non-competitive selection exception are as follows:

- i. HOC must be engaged in an initiative to improve, develop, or replace public housing properties or sites. The public housing properties or sites may be in HOC’s existing public housing inventory or they may be from those previously removed from the public housing inventory through any available legal removal tool within five years of the date on which HOC entered into the Agreement to Enter a Housing Assistance Payments (AHAP) contract or Housing Assistance Payments (HAP) contract, pursuant to the non-competitive selection.
- ii. If HOC plans rehabilitation or new construction, a minimum threshold of \$25,000 in hard costs per-unit is required, except as provided in iii, below.
- iii. If HOC plans to replace public housing by attaching project-based assistance to existing housing in which the Agency has an ownership interest or over which HOC has control, then the \$25,000 per-unit minimum threshold does not apply as long as the existing housing substantially complies with HUD’s housing quality standards (HQS). See Chapter 10 of this Administrative Plan for further information on what it means to substantially comply with HUD’s housing quality standards.

- iv. An explanation of the work HOC plans to do on the property or site and how many units of PBV assistance the Agency plans to add via non-competitive selection must be added to this Chapter in Section G.

- v. All of the units identified by HOC for non-competitive selection must be eligible for PBV assistance in accordance with 24 CFR 983.53. Furthermore, selection of the units must satisfy all other statutory and regulatory requirements of the PBV program as per HUD and this chapter of HOC's Administrative Plan.

4. **Selection Criteria:**

HOC will review proposals requesting PBV based on the selection criteria detailed in the Request for Proposals, and in compliance with all relevant statutory, regulatory, and HOC requirements.

Before HOC will provide voucher rental assistance, all developments must have PHA Board approval, meet Housing Quality Standards and have an executed Housing Assistance Payments Contract.

B. ELIGIBLE UNITS

1. Eligible Units:

- a. All PBV selected sites must be in compliance with PBV goals, Civil Rights requirements and Housing Quality Standards. HOC will review the applications to determine if the location is consistent with the goal of deconcentrating poverty and preserving and/or expanding housing and economic opportunities. HOC will take into consideration the site selection standards listed in 24 CFR §983.57 and the PBV program goals.
- b. To define a PBV unit as a unit in a rehabilitated housing, each unit must require a minimum of \$3000 in rehabilitation costs.
- c. For units requesting an exception to the **25 units** or 25 percent cap in a building, and that exception is based on providing supportive services, the services must be designed as services essential for maintaining or achieving independent living such as, but not limited to, counseling, education, job training, health care, mental health services, alcohol and/or other substance abuse services, child care services and or case management services. These services may be defined as being a participant in a PHA's FSS program.

2. Ineligible Units: HOC may not attach PBV assistance for units of the following types of housing:

- a. Shared housing
- b. Units on the grounds of a penal, reformatory, medical, mental or similar public or private institution
- c. Nursing homes or facilities providing continuous psychiatric medical, nursing service, board and care or intermediate care
- d. Units that are owned or controlled by an educational institution and are designated for occupancy by students of the institution
- e. Manufactured homes
- f. Transitional housing
- g. Owner occupied units
- h. Units occupied by an ineligible family.
- i. Units subsidized with any governmental rent subsidy or any governmental subsidy that covers all or any part of the operating costs of the housing. (24 CFR 983.54(c)(d)).

C. APPLICANT ELIGIBILITY FOR PARTICIPATION

Applicant eligibility for the project-based program is also covered in Chapter 2 of this document.

1. Applicants must meet the eligibility requirements for tenant-based Housing Choice Voucher Program.
2. Persons who will reside in PBV units must come from HOC wait list and/or be referred by the owner.
 - a. When a vacancy occurs in a PBV supportive housing unit, the owner may refer applicants to HOC. The applicant names will be placed on the HOC wait list and selected as a special admission for the available unit.
 - b. HOC will survey its regular wait list no less than once a year for each bedroom size for vacancies in non-supportive housing PBV developments. If the PHA is unable to provide enough eligible applicants from its wait list to fill PBV units, the owner may refer applicants to HOC.
3. HOC will not screen applicants for family behavior or check rental references. This will remain the responsibility of the owner. HOC will screen applicants in the manner established for all voucher applicants.
4. If the owner of a PBV unit denies a PBV applicant that was selected from HOC's wait list, that denial does not affect their place on the wait list for tenant based assistance.

5. If the owner refers an applicant (because HOC was unable to provide interested, eligible applicants) that applicant will be placed on the wait list as a special admission for the PBV program. The applicant must still meet all tenant-based eligibility requirements.
6. If an applicant from HOC wait list has been approved by the owner and is in verification status with HOC and their name comes to the top of the wait list to receive tenant based assistance (TBA), the applicant will be given the option to continue to be processed for the PBV unit or to be processed for a TBA voucher. The applicant will sign a statement declaring their choice.

D. LEASES AND HOUSING ASSISTANCE PAYMENTS CONTRACTS

1. If the owner uses a standard lease form for rental to unassisted tenants, the lease for a voucher-assisted tenant must be in such standard form but it must be for a one-year initial term and it must include the HUD tenancy addendum. The lease must specify the name(s) of the owner(s) and the tenant, the address of the unit rented, the term of the lease including any provision for renewal, the amount of the tenant rent to owner, a listing of what services, maintenance, equipment and utilities to be provided by the owner and the amount of any charges that are for food, furniture or supportive services.
2. The Housing Assistance Payments contract between the owner and HOC will be for an initial term of up to ~~15~~ 20 years, or such longer term permitted by HUD regulations than in effect. After the initial term, HOC may agree to extend the term of the contract for an additional term of up to ~~15~~ 20 years, or such longer term permitted by HUD regulations than in effect. To be eligible for an extension, the property and owner must be in compliance with program rules and applicable HUD statutes and regulations. The length of the extension will be negotiated with the owner and the form will be subject to any HUD prescribed conditions at the time of the extension.
3. An owner may request an increase to the rent at the annual anniversary of the HAP contract by a 60 day written notice to HOC. See Chapter 11 of this Administrative Plan for further information regarding rent increase guidelines for the Housing Choice Voucher program.
4. Under the PBV program, HOC is required to remove a unit from a PBV HAP contract after 180 days of zero housing assistance payments to the unit owner. In response to the COVID-19 pandemic, at its discretion HOC may keep a unit under contract for a period of time that exceeds 180 days but does not extend beyond December 31, 2020. This temporary policy expires on December 31, 2020 in accordance with the waiver flexibility authorized in PIH Notice 2020-13.

E. CONTINUED PARTICIPATION

1. A family may choose to move out of a PBV unit with continued assistance any time after 12 months of initial occupancy. If a family moves before their completion of 12 months of occupancy in their PBV unit, they are terminated from the Housing Choice Voucher program. Program termination in this context includes termination from the PBV program as well as from the opportunity to convert to a tenant-based voucher.
2. If a PBV tenant is determined no longer eligible for the Housing Choice Voucher PBV program, they are given a minimum of 30 days to vacate a unit. If the family does not vacate the unit, HOC must remove that PBV unit from the HAP contract or substitute a similar unit in the building. A PBV tenant who is terminated from the PBV program is given a minimum of 30 days notice of the termination and must vacate the unit on the effective date of the termination.
3. If the family receives no rent assistance for six months (that is, if the family's income remained at a level where their Total Tenant Payment [TTP] is equal to or exceeds the gross rent for the unit), the family will be required to vacate the unit. HOC will notify the family at least sixty days before the six months deadline that they must vacate the unit. If the family does not vacate the unit at the end of the six months, HOC must remove the unit from the HAP contract or substitute a similar unit in the same complex.
4. If HOC determines, at annual recertification, that the family is occupying a wrong size unit or determines anytime that the family is occupying a unit with accessibility features that the family does not require but another family does require, HOC will offer continued assistance in the following order:
 - a. An appropriate unit in another PBV unit either in the same building or another PBV assisted building.
 - b. Tenant based assistance if the family has been a PBV participant for at least 12 months.
 - c. Other project-based assistance.
5. For families residing in units that provide qualifying supportive services, as detailed in the HAP contract (see paragraph B. 1. in this chapter), the project must verify annually that at least one family member in each such unit receives supportive services. These services do not have to be provided by the project or at the project, but must comply with the terms of the HAP contract.

To verify the receipt of services, the project must use the format and procedures prescribed by HOC and notify HOC whether or not each family is in compliance.

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If a family, without good cause, fails to participate in at least one of the qualifying supportive services, as detailed in the HAP contract, HOC will determine that the

family is no longer eligible to participate in the program (see paragraph E. 2. in this chapter and in Chapter 15).

F: RENTAL ASSISTANCE DEMONSTRATION PROGRAM

The Housing Opportunities Commission of Montgomery County (HOC) successfully applied to participate in the Rental Assistance Demonstration (RAD) program of the U.S. Department of Housing and Urban Development (HUD). As part of HOC's RAD process, the Agency will be converting some of its existing Public Housing (PH) portfolio to Project-Based Voucher (PBV) rental assistance. For those existing HOC PH residents whose subsidies will be converting through RAD to PBV, the following participation parameters and resident rights will apply above and beyond the existing procedures and policies detailed in this Administrative Plan which would have otherwise applied to them:

1. No Re-screening of Tenants upon Conversion: [PIH-2012-32 (HA), REV-2, 1.6.C.1]

Pursuant to the RAD statute, at conversion, current households are not subject to rescreening, income eligibility, or income targeting. Consequently, current households will be grandfathered for conditions that occurred prior to conversion, but will be subject to any ongoing eligibility requirements for actions that occur after conversion. For example, a unit with a household that was over-income at the time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR § 982.201, concerning eligibility and targeting, will not apply for current households. Once that remaining household moves out, the unit must be leased to an eligible family.

2. Right to Return: [PIH-2012-32 (HA), REV-2, 1.6.C.2]

Any resident that may need to be temporarily relocated to facilitate rehabilitation or construction has a right to return to an assisted unit at the Covered Project once rehabilitation or construction is completed. Permanent involuntary displacement of residents may not occur as a result of a project's conversion of assistance, including, but not limited to, as a result of a change in bedroom distribution, a de minimis reduction of units, the reconfiguration of efficiency apartments, or the repurposing of dwelling units in order to facilitate social service delivery. Where the transfer of assistance to a new site is warranted and approved, residents of the Converting Project will have the right to reside in an assisted unit at the new site once rehabilitation or construction is complete.

3. Renewal of Lease: [PIH-2012-32 (HA), REV-2, 1.6.C.3]

The regulations under 24 CFR § 983.257(b)(3) require Project Owners to renew all leases upon lease expiration, unless cause exists. Examples of cause include:

- a. Serious violation or repeated violation of the terms and conditions of the lease; and
- b. Violation of federal, State, or local law that imposes obligations on the tenant in connection with the occupancy or use of the premises.

In accordance with 24 CFR § 983.257(a) for the PBV program, cause does not include a business or economic reason or desire to use the unit for an individual, family, or nonresidential rental purpose.

4. Phase-in of Tenant Rent Increases Over 3 Years: [PIH-2012-32 (HA), REV-2, 1.6.C.4]

If a tenant's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over 3 years. The method described below explains the set percentage-based phase-in a Project Owner must follow according to the phase-in period. For purposes of this section "standard TTP" refers to the Total Tenant Payment calculated in accordance with regulations at 24 CFR §5.628 and the "most recently paid TTP" refers to the TTP recorded on line 9j of the family's most recent HUD Form 50058. If a family in a project converting from Public Housing to PBV was paying a flat rent immediately prior to conversion, HOC will use the flat rent amount to calculate the phase-in amount for Year 1, as illustrated below.

Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the standard TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 66% of difference between most recently paid TTP and the standard TTP
- Year 3: Year 3 AR and all subsequent recertifications – Full standard TTP

5. Family Self Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs: [PIH-2012-32 (HA), REV-2, 1.6.C.5]

Public Housing residents that are current FSS participants will continue to be eligible for FSS once their housing is converted under RAD, and PHAs will be allowed to use any remaining PH FSS funds, to serve those FSS participants who live in units converted by RAD. Due to the program merger between PH FSS and HCV FSS that took place pursuant to the FY 2014 Appropriations Act (and was continued in the FY 2015 Appropriations Act), no special provisions are required to continue serving FSS participants that live in public housing units converting to PBV under RAD.

However, there are certain FSS requirements (e.g. escrow calculation and escrow forfeitures) that apply differently depending on whether the FSS participant is a participant under the HCV program or a public housing resident, and HOCs must follow such requirements accordingly. HOC administers the FSS program in accordance with FSS regulations at 24 CFR Part 984, the participants' contracts of participation, and the alternative requirements established in the "Waivers and Alternative Requirements for the FSS Program" Federal Register notice, published on December 29, 2014, at 79 FR 78100. Further, upon conversion to PBV, already escrowed funds for FSS participants shall be transferred into the HCV escrow account and be considered Tenant-Based Rental Assistance (TBRA) funds, thus reverting to the HAP account if forfeited by the FSS participant.

Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future ROSS-SC grants, nor will its residents be eligible to be served by future ROSS-SC grants, which, by statute, can only serve public housing residents.

6. Resident Participation and Funding: [PIH-2012-32 (HA), REV-2, 1.6.C.6] [PIH-2012-32 (HA), REV-2, Attachment 1B]

In accordance with Attachment 1B of PIH-2012-32 (HA), REV-2, residents of Covered Projects with converted PBV assistance will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding, which includes the terms and conditions of their tenancy as well as activities related to housing and community development.

- a. **Legitimate Resident Organization.** A Project Owner must recognize legitimate resident organizations and give reasonable consideration to concerns raised by legitimate resident organizations. A resident organization is legitimate only if it has been established by the residents of a Covered Project, meets regularly, operates democratically, is representative of all residents in the project, and is completely independent of the Project Owner, management, and their representatives. In the absence of a legitimate resident organization at a Covered Project, HUD encourages the Project Owner and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate residents organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization; and
- b. **Protected Activities.** Project Owners must allow residents and resident organizers to conduct the following activities related to the establishment or operation of a resident organization:

- i. Distributing leaflets in lobby areas;
- ii. Placing leaflets at or under residents' doors;
- iii. Distributing leaflets in common areas;
- iv. Initiating contact with residents;
- v. Conducting door-to-door surveys of residents to ascertain interest in establishing a resident organization and to offer information about resident organizations;
- vi. Posting information on bulletin boards;
- vii. Assisting residents to participate in resident organization activities;
- viii. Convening regularly scheduled resident organization meetings in a space on site and accessible to residents, in a manner that is fully independent of management representatives. In order to preserve the independence of resident organizations, management representatives may not attend such meetings unless invited by the resident organization to specific meetings to discuss a specific issue or issues; and
- ix. Formulating responses to Project Owner's requests for:
 - 1. Rent increases;
 - 2. Partial payment of claims;
 - 3. The conversion from project-based paid utilities to resident-paid utilities;
 - 4. A reduction in resident utility allowances;
 - 5. Converting residential units to non-residential use, cooperative housing, or condominiums;
 - 6. Major capital additions; and
 - 7. Prepayment of loans.

In addition to these activities, Project Owners must allow residents and resident organizers to conduct other reasonable activities related to the establishment or operation of a resident organization.

Project Owners shall not require residents and resident organizers to obtain prior permission before engaging in the activities permitted in this section.

- c. Meeting Space. Project Owners must reasonably make available the use of any community room or other available space appropriate for meetings that is part of the multifamily housing project when requested by:
 - i. Residents or a resident organization and used for activities related to the operation of the resident organization; or
 - ii. Residents seeking to establish a resident organization or collectively address issues related to their living environment.

Resident and resident organization meetings must be accessible to persons with disabilities unless this is impractical for reasons beyond the organization's control. If the project has an accessible common area or areas, it will not be impractical to make organizational meetings accessible to persons with disabilities.

Project Owners may charge a reasonable, customary and usual fee, approved by the Secretary as may normally be imposed and in accordance with procedures prescribed by the Secretary, for the use of meeting space. HOC may waive this fee.

- d. Resident Organizers. A resident organizer is a resident or non-resident who assists residents in establishing and operating a resident organization, and who is not an employee or representative of current or prospective Project Owners, managers, or their agents.

Project Owners must allow resident organizers to assist residents in establishing and operating resident organizations.

- e. Canvassing. If a Covered Project has a consistently enforced, written policy against canvassing, then a non-resident resident organizer must be accompanied by a resident while on the property of the project.

If a project has a written policy favoring canvassing, any non-resident resident organizer must be afforded the same privileges and rights of access as other uninvited outside parties in the normal course of operations. If the project does not have a consistently enforced, written policy against canvassing, the project shall be treated as if it has a policy favoring canvassing.

A resident has the right not to be re-canvassed against his or her wishes regarding participation in a resident organization.

- f. Funding. Project Owners must provide \$25 per occupied unit annually for resident participation, of which at least \$15 per occupied unit shall be provided to the legitimate resident organization at the covered property. These funds must be used for resident education, organizing around tenancy issues, and training activities. In the absence of a legitimate resident organization at a Covered Project:
 - i. HOC encourages the Project Owners and residents to work together to determine the most appropriate ways to foster a constructive working relationship, including supporting the formation of a legitimate residents organization. Residents are encouraged to contact the Project Owner directly with questions or concerns regarding issues related to their tenancy. Project Owners are also encouraged to actively engage residents in the absence of a resident organization; and
 - ii. Project Owners must make resident participation funds available to residents for organizing activities in accordance with this Notice. Residents must make requests for these funds in writing to the Project Owner. These requests will be subject to approval by the Project Owner.

HOC's Resident Advisory Board (RAB) will serve as the required resident organization described herein and in compliance with this section.

7. Resident Procedural Rights: [PIH-2012-32 (HA), REV-2, 1.6.C.7]

Owner's lease, which includes the required tenancy addendum, as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.

- a. **Termination Notification.** HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects that convert assistance under RAD. In addition to the regulations at 24 CFR § 983.257 related to Project Owner termination of tenancy and eviction (the termination procedure for RAD conversions to PBV requires that HOC provide adequate written notice of termination of the lease which shall not be less than:
 - i. A reasonable period of time, but not to exceed 30 days:
 1. If the health or safety of other tenants, HOC employees, or persons residing in the immediate vicinity of the premises is threatened; or
 2. In the event of any drug-related or violent criminal activity or any felony conviction;
 3. 14 days in the case of nonpayment of rent; and
 4. 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.
- b. **Grievance Process.** In accordance with the RAD Statute, the following procedural rights are required in order to comply with section 6 of the Act.

For issues related to tenancy and termination of assistance, PBV program rules require the Project Owner to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will specify alternative requirements for 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, to require that:

- i. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(vi), an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease or the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
- ii. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i). For any additional hearings required under RAD, the Project Owner will perform the hearing.
- iii. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or contract administrator.

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- iv. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi).
- v. The Project Owner provides opportunity for an informal hearing before an

eviction.

Current PBV program rules require that hearing procedures must be outlined in HOC's Section 8 Administrative Plan. See Chapter 19: Complaints and Appeals.

8. Earned Income Disregard (EID): [PIH-2012-32 (HA), REV-2, 1.6.C.8]

Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion in accordance with regulations at 24 CFR § 5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to rent phase-in as described in Section 1.6.C.4 of the RAD Notice; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the Housing Choice Voucher program, the EID exclusion is limited only to persons with disabilities (24 CFR § 5.617(b)). In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in section 5.617(b) limiting EID to disabled persons is waived. The waiver and the resulting alternative requirements apply only to tenants receiving the EID at the time of conversion. No other tenant (e.g., tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion) is covered by this waiver.

9. Jobs Plus: [PIH-2012-32 (HA), REV-2, 1.6.C.9]

Jobs Plus grantees awarded in FY14 and future funds that convert the Jobs Plus target projects(s) under RAD will be able to finish out their Jobs Plus period of performance at that site unless significant relocation and/or change in building occupancy is planned. If either is planned at the Jobs Plus target project(s), HUD may allow for a modification of the Jobs Plus work plan or may, at the Secretary's discretion, choose to end the Jobs Plus program at that project.

10. When Total Tenant Payment Exceeds Gross Rent: [PIH-2012-32 (HA), REV-2, 1.6.C.10]

Under normal PBV rules, HOC may only select an occupied unit to be included under the PBV HAP contract if the unit's occupants are eligible for housing assistance payments (24 CFR §983.53(d)). Also, HOC must remove a unit from the contract when no assistance has been paid

for 180 days because the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent)) (24 CFR §983.258). Since the rent limitation under this Section of the Notice may often result in a family's TTP equaling or exceeding the gross rent for the unit, for current residents (i.e. residents living in the public housing property prior to conversion), HUD has waived both of these provisions and requires that the unit for such families be placed on and/or remain under the HAP contract when TTP equals or exceeds the Gross Rent. Further, HUD is establishing the alternative requirement that the rent to owner for the unit equal the family's TTP until such time that the family is eligible for a housing assistance payment. HUD has waived this policy as necessary to implement this alternative provision, the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR 983.301 as modified by Section 1.6.B.5 of the RAD Notice. In such cases, the resident is considered a participant under the program, and all of the family obligations and protections under RAD and PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under a HAP contract. Assistance may subsequently be reinstated if the tenant becomes eligible for assistance. HOC is required to process these individuals through the Form-50058 submodule in PIC.

Following conversion, 24 CFR §983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program, which means that their TTP may not exceed the gross rent for the unit at that time. Further, HOC must remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, HUD is imposing an alternative requirement that HOC must reinstate the unit after the family has vacated the property; and, if the project is partially assisted, HOC may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR §983.207 or, where "floating" units have been permitted, Section 1.6.B.10 of PIH-2012-32 (HA), REV-2.

11. Under-Occupied Unit: [PIH-2012-32 (HA), REV-2, 1.6.C.11]

If a family is in an under-occupied unit under 24 CFR 983.259 at the time of conversion, the family may remain in that unit until an appropriate-sized unit becomes available in the Covered Project. When an appropriate-sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time, as determined by the administering Voucher Agency. HOC has determined this time frame to be 60 days. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered Project, 24 CFR 983.259 is waived.

12. Wrong-sized Unit: [Quick Reference Guide for Public Housing Project Converting to PBV Assistance 3.4.1]

In cases where, after initial tenancy, the family is occupying a wrong-sized unit or a unit that has accessibility features not required by the family and where the unit is needed by a family

that requires this accessibility feature, HOC will promptly notify the owner and the family can be offered assistance in:

- a. Another appropriate size unit (in the same building); or
- b. The form of a tenant-based voucher, if funding is available.

13. Establishment of Wait List: [PIH-2012-32 (HA), REV-2, 1.6.D.4]

24 CFR §983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based wait list from which residents for the Covered Project will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of wait list and other wait list policies. HOC shall consider the best means to transition applicants from the current public housing wait list, including:

- a. Transferring an existing site-based wait list to a new site-based wait list. If HOC is transferring the assistance to another neighborhood, HOC must notify applicants on the wait list of the transfer of assistance and of how they can apply for residency at the new project site or other sites. Applicants on a project-specific wait list for a project where the assistance is being transferred shall have priority on the newly formed wait list for the new project site in accordance with the date and time of their application to the original project's wait list.
- b. Informing applicants on the site-based wait list on how to apply for a PBV program-wide or HCV program-wide wait list.
- c. Informing applicants on a public housing community-wide wait list on how to apply for a voucher-wide, PBV program-wide, or site-based wait list. If using a site-based wait list, HOC shall establish a wait list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide wait list have been offered placement on the converted project's initial wait list. In all cases, HOC has the discretion to determine the most appropriate means of informing applicants on the public housing community-wide wait list given the number of applicants, HOC resources, and admissions requirements of the projects being converted under RAD. HOC may consider contacting every applicant on the public housing wait list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate. Applicants on the agency's public housing community-wide wait list who wish to be placed onto the newly established site-based wait list must be placed in accordance with the date and time of their original application to the centralized public housing wait list. Any

- d. activities to contact applicants on the public housing wait list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).

HOC is required to maintain any site-based wait list in accordance with all applicable civil rights and fair housing laws and regulations unless the project is covered by a remedial order or agreement that specifies the type of wait list and other wait list policies.

To implement this provision, HUD has specified alternative requirements for 24 CFR § 983.251(c)(2). However, after the initial wait list is established, HOC shall administer its wait list for the converted project in accordance with 24 CFR § 983.251(c).

14. Choice-Mobility: [PIH-2012-32 (HA), REV-2, 1.6.D.9]

One of the key features of the PBV program is the mobility component; this component provides that if a family elects to terminate the assisted lease at any time after the first 12 months of occupancy in accordance with program requirements, HOC must offer the family the opportunity for continued tenant-based rental assistance in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

Similarly, former Public Housing residents converted via RAD to Project-Based Rental Assistance (PBRA), also receive special choice mobility. For RAD-converted PBRA customers, if the family elects to terminate their assisted lease at any time after the first 24 months of occupancy in accordance with program requirements, HOC must offer the family the opportunity for continued tenant-based rental assistance in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

Once a RAD-converted PBV or PBRA family elects to terminate their assisted lease so that they can convert from their current project-based subsidy to a tenant-based subsidy, their name is added to HOC's Choice Mobility Wait List. As customers on this Choice Mobility Wait List reach the top of the list, they are selected for their tenant-based voucher and will continue through the voucher issuance process described in Chapter 8 of this Administrative Plan.

RAD Voucher Turnover Cap

All RAD-converted PBV and PBRA customers who reach their eligibility for Choice Mobility (12 months and 24 months, respectively) are subject to the following procedures of HOC's RAD Voucher Turnover Cap:

- Up to 15 percent of turnover units at each RAD project in any given Calendar Year may be used by customers called from the Choice Mobility Wait List.

- For eligible customers who are unable to exercise their Choice Mobility option at a property because the cap is exhausted for that year, HOC will add their names to the Choice Mobility Wait List.
- HOC's Choice Mobility Wait List is stored within Housing Path and is a unified list across all RAD properties.
- Among all available HOC turnover vouchers, every third voucher is available to a customer coming off the Choice Mobility Wait List.

This RAD Voucher Turnover Cap does not apply to PBVs entered into outside of the context of RAD.

15. Vacancy Payments:

In order to receive vacancy payments, Project Owners assisted under RAD must meet the following requirements:

a. Payments for the Move-out Month:

If an assisted family moves out of the unit, the Project Owner may keep the housing assistance payment payable for the calendar month when the family moves out. However, the owner may not keep the payment if HOC determines the vacancy is the owner's fault.

b. Vacancy Payment:

At its discretion, HOC will make vacancy payments of the monthly rent, but not to exceed two full months following the move out month. Any vacancy payment may cover only the period the unit remains vacant. In order to claim the vacancy loss, the unit must be available for lease and the landlord must:

- i. Notify HOC within 48 hours, excluding weekends and holidays, upon learning of the vacancy, or prospective vacancy; and
- ii. Pursue activities to fill the vacancy, including:
 1. Seek eligible applicants by listing the unit with HOC;
 2. Notify HOC of the availability of the unit; and
 3. Not reject potentially eligible applicants except for good cause.

G: PROJECT DESCRIPTIONS OF PROJECT-BASED VOUCHER ASSISTANCE PROVIDED USING A NON-COMPETITIVE SELECTION PROCESS

Each property or site which will receive PBVs through the non-competitive selection process provided for in this Administrative Plan, are identified below.

1. In December of 2017, HOC used the non-competitive selection process provided for herein to award HOC 40 Project-Based Vouchers (PBV). These vouchers are reserved

for use at HOC's Park View apartment project. Park View is a new construction, age-restricted property which is currently under development, and is expected to open for occupancy in April of 2019. Park View is located at 3132 Bel Pre Road in Aspen Hill, Maryland. HOC is developing Park View as a mixed-income property with a total of 120 units. HOC expects to exceed the required minimum threshold of \$25,000 in hard costs per unit during construction of Park View. At closing, Park View had an estimated hard cost per unit of \$142,610.

2. In November of 2018, HOC used the non-competitive selection process provided for herein to award HOC 26 Project-Based Vouchers (PBV). These vouchers are reserved for use at HOC's Elizabeth House III apartment project. Elizabeth House III is a new construction, age-restricted property which is currently under development, and is expected to open for occupancy in 2021. Elizabeth House III is located in downtown Silver Spring, Maryland; an area rich in amenities, including multiple public transit, entertainment, employment, education, and retail options. HOC is developing Elizabeth House III as part a mixed-income group of properties known together as Elizabeth Square. The full Elizabeth House III will include approximately 267 units. HOC expects to exceed the required minimum threshold of \$25,000 in hard costs per unit during construction of Elizabeth House III.