

REVISED: February 3, 2021

**EXPANDED AGENDA**

February 3, 2021

|                       |   |  | Res #           |
|-----------------------|---|--|-----------------|
| 4:00 p.m.<br><br>4    | <p><b>I. <u>INFORMATION EXCHANGE</u></b></p> <p>A. Resident Advisory Board<br/>B. Community Forum<br/>C. Report of the Executive Director<br/>D. Commissioner Exchange</p> <p><b>*Community Forum – In order to continue to implement recommended social distancing guidelines, HOC will conduct its meetings via an online platform and teleconference call until further notice. Persons who desire to participate in the Community Forum must complete the Request to Address Commission Form found on the HOC webpage at least 24 hours prior to the start of the meeting. You will be required to provide your full first and last name, a valid email address, as well as a valid phone number to confirm your participation. Approved participants will be notified no later than 12:00 p.m. on the day of the Commission Meeting. Please refer to HOC’s website for the complete Public Observation and Participation Guidelines and for information on HOC’s State of Emergency Open Meeting Procedures.</b></p> |  |                 |
| 4:30 p.m.<br>7        | <p><b>II. <u>APPROVAL OF MINUTES</u></b></p> <p>A. Approval of Minutes of January 13, 2021</p>  |  |                 |
| 4:35 p.m.<br>Page 30  | <p><b>III. <u>CONSENT</u></b></p> <p>A. <b>Housing Opportunities Commission Bylaws:</b> Approval to Temporarily Amend the Bylaws of The Housing Opportunities Commission of Montgomery County</p>   |  | 21-14 (pg. 31)  |
| 4:40 p.m.             | <p><b>IV. <u>COMMITTEE REPORTS and RECOMMENDATIONS FOR ACTION</u></b></p>   |  |                 |
| Page 35               | <p><b>A. Budget, Finance and Audit Committee – Com. Nelson, Chair</b></p> <p>1. <b>County Fiscal Year 2022 – 2027 Capital Improvements Program Budget:</b> Authorization to Submit Reduced County Fiscal Year 2022 – 2027 Capital Improvements Program Budget</p>   |  | 21-15 (pg. 38)  |
| 4:50 p.m.<br>Page 40  | <p><b>B. Legislative and Regulatory Committee – Com. Kelleher, Chair</b></p> <p>1. <b>Housing Choice Voucher Administrative Plan:</b> Authorization of Revisions to HOC’s Administrative Plan for the Housing Choice Voucher Program to add Coronavirus Disease 2019 (COVID-19) Related Waivers to the Plan in Accordance with HUD Notice PIH 2020-33</p>   |  | 21-16 (pg. 176) |
| 5:00 p.m.<br>Page 177 | <p>2. <b>Housing Choice Voucher Payment Standards:</b> Authorization to Implement Voucher Payment Standards Based on HUD Fiscal Year 2021 Small Area Fair Market Rents</p>  |  | 21-17 (pg. 183) |
| 5:10 p.m.             | <p><b>C. Development and Finance Committee – Com. Simon, Chair</b></p>  |  |                 |

|                                       |  |   |
|---------------------------------------|--|---|
| Page 187<br><br>5:20 p.m.<br>Page 199 | <ol style="list-style-type: none"> <li>1. <b>Hillandale Gateway:</b> Approval to Select Renascent, Inc. as the Demolition Contractor for Holly Hall Apartments in Accordance with Information for Bid (“IFB”) #2222 and Authorization for the Executive Director to Negotiate and Execute a Contract for the Demolition</li> <li>2. <b>Fenwick &amp; Second – Housing Opportunities Commission Headquarters:</b> Authorization to Transmit to the Planning, Board, the Second Phase of Mandatory Referral Submission; and Approval of and Full Funding of Revised Fiscal Year 2021 Predevelopment Budget Deliberation</li> </ol> | <p>21-18 (pg. 197)</p> <p>21-19<sub>A</sub> (pg. 216)<br/>21-19<sub>B</sub> (pg. 218)</p> |
| 5:30 p.m.                             | <b>V. <u>ITEMS REQUIRING DELIBERATION and/or ACTION</u></b>  |   |
| Page 221                              | <ol style="list-style-type: none"> <li>1. <b>Brooke Park Apartments:</b> Approval to Draw on the Original PNC Bank, N.A. Line of Credit to Bridge Receipt of County Loan Funds for the Renovation of Brooke Park Apartments</li> </ol>   | 21-20 (pg. 225)   |
| 5:45 p.m.                             | <b>VI. ELECTION OF OFFICERS</b> <ul style="list-style-type: none"> <li>• Chair</li> <li>• Vice Chair</li> <li>• Chair Pro Tem</li> </ul>   |   |
| 5:50 p.m.<br>Page 229                 | <b>VII. *<u>FUTURE ACTION ITEMS</u></b> <ol style="list-style-type: none"> <li>1. <b>Housing Opportunities Commission Recapitalization:</b> Discussion of Sale of Holly Hall and Veirs Mill East and the Lease Back to The Housing Opportunities Commission</li> </ol>   |   |
| Page 234                              | <b><u>CLOSING STATEMENT</u></b>  |   |
| 6:00 p.m.                             | <b><u>ADJOURN</u></b>  |   |
| 6:05 p.m.                             | <b><u>CLOSED SESSION</u></b><br>A Closed Session will be called to order pursuant to Section 3-305(b)(3) and Section 3-305(b)(13) of the General Provisions Article of the Annotated Code of Maryland  |   |

NOTES:

1. This Agenda is subject to change without notice.
2. Public participation is permitted on Agenda items in the same manner as if the Commission was holding a legislative-type Public Hearing.
3. *Times are approximate and may vary depending on length of discussion.*
4. \*These items are listed "For Future Action" to give advance notice of coming Agenda topics and not for action at this meeting.
5. Commission briefing materials are available in the Commission offices the Monday prior to a Wednesday meeting.

If you require any aids or services to fully participate in this meeting, please call (240) 627-9425 or email [commissioners@hocmc.org](mailto:commissioners@hocmc.org).

# Information Exchange

### ***Family Self-Sufficiency Activities***

Emmanuel Brinklow Seventh Day Adventist Church conducted a virtual Financial Literacy workshop on January 14, 2021, including twenty-five participants. The presenter reviewed the most current COVID-19 relief package, approved in December 2020. He spoke in detail about the qualification requirements to receive a second stimulus check, the recovery rebate tax credit, unemployment relief, and filing taxes. In addition, he highlighted the new proposals by the incoming administration.

### ***Project-Based Vouchers Update***

On December 18, 2020, HOC issued a Request for Proposal (RFP) to award 100 Project-Based Vouchers, with proposals due February 4, 2021. Project-Based Vouchers are a component of the Housing Choice Voucher Program and provide rental subsidies to low-income families, with vouchers tied to specific, designated units. Owners and/or developers will be selected to receive Project-Based Vouchers through a competitive process. Ideal candidates will preserve and expand affordable housing in low poverty areas of Montgomery County.

### ***Service Coordination Support and Rental Assistance Continue During COVID-19***

#### **Service Coordination**

The Service Coordination Unit continued to provide services to customers throughout January 2021. Services included assessments, information, and referrals. Resident Counselors continued to engage customers to determine their needs. Staff referred HOC customers to partners to receive food and other assistance. Services are currently being offered via telephone and virtual platforms. Customers also continued to receive referrals to the Housing Stabilization Program, unemployment assistance, TCA, SNAP, MEAP, EARP, and other benefit programs. Resident Counselors also attended briefings to provide information on the services that Resident Services offer.

Highlights for January activities of Up-County Resident Counselors include launching an afterschool program at Town Center-Olney; hosting a Fundamentals of Housing workshop for HOC customers, staffed by HOC Gaithersburg Customer Service Center employees; attending the Cider Mill Virtual Tenant Association meeting; and preparing for an Energy Savings workshop for residents at Seneca Ridge. Highlights for January activities of Down-County Resident Counselors include: working with customers with rent delinquencies, providing resources for customers to reduce owed balances and encouraging customers to contact Property Management to create repayment agreements; developing proposals for virtual programming for customers; and assisting efforts at Bauer Park to ensure customers requiring Reasonable Accommodations for their new units receive them, and consulting customers with hoarding behaviors.

#### **Programming**

Resident Services staff continued to provide food resources, and other supports, to HOC customers. HOC staff is preparing to collaborate with service providers to host HOC's second food distribution, financed with the assistance of HOC's nonprofit affiliate, Housing Opportunities Community Partners (HOCP). This one-time food distribution is expected to occur in February.

In addition to addressing the essential needs of customers, staff is creating virtual community spaces for HOC senior customers. In January, HOC community partner, Arts for the Aging (AFTA), hosted one virtual program with a teaching artist. The teaching artist led a rousing edition of "Country Road," and customers and staff alike had a great time singing along. Staff will continue to encourage more participation with Arcola Towers seniors, where six customers participated in the AFTA-hosted virtual program. HOC is hopeful that the DHCA's



Understanding Aging webinar on *How to Build a Virtual Community* will help staff in empowering seniors to connect via virtual platforms. Resident Services staff is also coordinating other programs for youth and seniors through virtual platforms.

#### HOC Academy

The Small Business Strategy Course, hosted by ALSTNTEC, LLC, held its third of ten sessions. Weekly mentorship sessions are ongoing, and students are learning the following objectives: creating a vision, mission and goals statement, Business Structure and Tax Liability, and Branding 101. Lastly, the cohort, including eight students, has maintained satisfactory attendance.

#### Financial Literacy

The Financial Literacy Coach continued to work with HOC customers and HOC Housing Path Waitlist applicants. In January, the Financial Literacy Coach held three workshops on credit repair. Each of the three workshops hosted approximately 35 participants. All participants actively worked to address negative credit matters, and more than half of the participants made positive changes to their credit reports. This helped improve participants' credit scores with an increase of three to seven points. Some focuses of the workshops include disputing inaccurate information on credit reports and requesting removal of potentially negative items on the report that are seven years and older.

#### Supportive Housing

The Supportive Housing Program continued to provide support to program participants. Program staff continued to call clients weekly and deliver gift cards to assist with food, and other essentials, to those in need. The team continues to enroll new customers into the program, house new customers, and respond to critical needs.

#### Fatherhood Initiative Program

The Fatherhood Initiative Program continues its planning phase of the newly awarded grant. In January, staff worked to begin the recruitment process for the new Administrative Aide II position, financed by the grant. Staff also worked to execute certain agreements stipulated by the grant.

#### COVID Rental Assistance Program

Residents Services (RS) staff continued to work with Compliance, LPA, and Finance to issue rental assistance resources to County residents who have lost income due to COVID-19. Residents Services staff completed the review of approximately 1,400 applications. After conducting outreach, RS staff approved more than 600 applicants for assistance. Resident Services staff also worked with the Finance Division to issue the remaining payments made available by the program.

#### **HOC Maintenance Efforts**

All COVID-19 protocols remained in effect during the month of January. Additional electrostatic sprayers were purchased to be kept for use in each on-call truck. In the month of January, Trades Maintenance Workers in the Maintenance Division completed 1,133 work orders, 119 of which were emergencies. Year to date, the Maintenance Division has completed 9,643 total work orders, including 1,074 emergency orders. Throughout January, the work order response time remained slightly increased due to staff subject to quarantines related to COVID-19, decreasing slightly from December 2020.

# Minutes

**HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY**

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

**Minutes**

January 13, 2021

21-01

The monthly meeting of the Housing Opportunities Commission of Montgomery County was conducted via an online platform and teleconference on Wednesday, January 13, 2021, 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  
Pamela Byrd  
Linda Croom  
Jeffrey Merkowitz  
Jackie Simon

**Also Attending**

Stacy L. Spann, Executive Director  
Aisha Memon, General Counsel  
Zachary Marks  
Charnita Jackson  
Victoria Dixon  
Jay Berkowitz  
Hyunsuk Choi  
Terri Fowler  
Marcus Ervin  
Olutomi Adebo  
Ian Hawkins

Kayrine Brown, Deputy Executive Director  
Eamon Lorincz, Deputy General Counsel  
Cornelia Kent  
Fred Swan  
Eugenia Pascual  
Jennifer Arrington  
Nicolas Deandreis  
Kristyn Greco  
Gio Kaviladze  
Jay Shepherd  
Frederick Colas

**Resident Advisory Board**

Shawntel Reddix

**Commission Support**

Patrice Birdsong, Spec. Asst. to the Commission

**Guest**

Karen Lundregan  
Marsha Coleman-Adebayo

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

I. **Information Exchange**

- **Resident Advisory Board** - Shawntel Reddix provided an update of the RAB's December 14, 2020 meeting. Fred Swan, Director of Resident Services, provided a power point presentation of the Resident Services Division to include the different programs offered through the Division such as the HOC Academy, Family Self-Sufficiency Program, Seniors Program, Food and Nutrients Program, and the Fatherhood Initiative Program. The RAB was reminded that HOC is the only Montgomery County Agency that offers the Fatherhood Initiative Program. He also informed of other Programs such as the assistance for people with disabilities, youth aging out of foster care, and a moving up program for the homeless.

Ms. Reddix informed that the RAB continues to work with the Legislative and Public Affairs (LPA) Division on creating its webpage. Informal elections will be postponed until in person meeting resumes, and the current officers will remain until such time. The RAB continues to recruit new Board members.

Chair Priest thanked Ms. Reddix for the work she and the RAB does for the residence and expressed to continue the good work.

- **Community Forum** – Karen Lundregan addressed the Board regarding issues with HOC. Marsha Adebayo addressed the Board regarding the Moses African American Cemetery.

Chair Priest thanked Ms. Adebayo for her continued advocacy on behalf of the descendants and mentioned that the Board is looking forward to meeting to discuss finding a way to recognize and memorialize the descents.

**Executive Director's Report**

- Executive Director Spann highlighted on the COVID Relief Package signed into law on December 22, 2020. He highlighted on the different Programs the Department of Housing and Urban Development will be funding. Mr. Spann clarified that the funding is national and would be received at the state or local levels for distribution.

**Commissioner Exchange**

None.

- II. **Approval of Minutes** - The minutes were approved as submitted with a motion by Chair Pro Tem Nelson and seconded by Commissioner Simon. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Croom, Merkowitz, and Simon.

**A. Approval of Minutes of December 9, 2020**

**B. Approval of Minutes of December 9, 2020 Closed Session**

III. **CONSENT**

- A. Housing Opportunities Commission:** Approval of the Nomination of Varun Dhawan and Lexan McDowell to the Board of Directors of the Housing Opportunities Community Partners, Inc.

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, Byrd, Croom, Merkwowitz, and Simon.

**RESOLUTION NO.: 21-01**

**RE: Approval of the Nominations of Varun Dhawan and Lexan McDowell to the Board of Directors of the Housing Opportunities Community Partners, Inc.**

**WHEREAS**, the Housing Opportunities Commission of Montgomery County (“Commission”) approved the creation of the non-profit, Housing Opportunities Community Partners, Inc. (“Community Partners”), in 1999 to support the residents and programs of the Commission; and

**WHEREAS**, the Board of Community Partners unanimously has nominated Varun Dhawan and Lexan McDowell to fill vacancies on the Community Partners’ Board; and

**WHEREAS**, the Commission is required, by the Community Partners’ bylaws, to approve nominees to the Board of Directors of Community Partners.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that Varun Dhawan and Lexan McDowell are hereby approved and appointed to serve on the Board of Directors of Housing Opportunities Community Partners, Inc.

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

**IV. COMMITTEE REPORTS and RECOMMENDATIONS FOR ACTION**

**A. Budget, Finance, and Audit Committee – Com. Nelson, Chair**

**1. Acceptance of the First Quarter Fiscal Year 2021 (FY’21) Budget to Actual Statements**

Cornelia Kent, Chief Financial Officer, and Olutomi Adebo, Assistant Budget Officer, were the presenters.

The following resolution was adopted upon a motion by Chair Pro Tem Nelson and seconded by Commissioner Byrd. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Croom, Merkwowitz, and Simon.

**RESOLUTION NO.: 21-02**

**RE: Acceptance of the First Quarter FY’21 Budget to Actual Statements**

**WHEREAS**, the Budget Policy for the Housing Opportunities Commission of Montgomery County (“HOC” or “Commission”) states that quarterly budget to actual statements will be reviewed by the Commission; and

**WHEREAS**, the Commission reviewed the First Quarter FY’21 Budget to Actual Statements during its January 13, 2021 meeting.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that it hereby accepts the First Quarter FY'21 Budget to Actual Statements.

## **2. Approval of Fiscal Year 2021 First Quarter Budget Amendment**

Cornelia Kent, Chief Financial Officer, and Terri Fowler, Budget Officer, were the presenters.

The following resolution was adopted upon a motion by Chair Pro Tem Nelson and seconded by Vice Chair Kelleher. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Croom, Merkowitz, and Simon.

**RESOLUTION NO: 21-03**

**RE: Approval of FY'21 First Quarter  
Budget Amendment**

**WHEREAS**, the Housing Opportunities Commission of Montgomery County (the "Commission") adopted a budget for FY'21 on June 3, 2020;

**WHEREAS**, the Commission's Budget Policy allows for amendments to the budget;

**WHEREAS**, the net effect of the FY'21 First Quarter Budget Amendment is a surplus of \$130,840 which will decrease the anticipated draw from the General Fund Operating Reserve (GFOR) of \$359,631 by \$130,840 to \$228,791 in order to maintain a balanced budget;

**WHEREAS**, the total FY'21 Operating Budget increased from \$278,680,288 to \$280,052,393;

**WHEREAS**, the total FY'21 Capital Budget increased from \$236,842,049 to \$237,867,792;  
and

**WHEREAS**, approval of the budget amendments to revise the FY'21 budget will reflect an accurate plan for the use of the Commission's resources for the remainder of FY'21.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that it hereby amends the FY'21 Operating Budget by increasing total revenues and expenses for the Commission from \$278,680,288 to \$280,052,393.

**BE IT ALSO RESOLVED** that the Housing Opportunities Commission of Montgomery County hereby amends the FY'21 Capital Budget by increasing revenues and expenses for the Commission from \$236,842,049 to \$237,867,792.

## **3. Approval of Calendar Year 2020 Third Quarter Budget Amendment**

Cornelia Kent, Chief Financial Officer, and Terri Fowler, Budget Officer, were the presenters.

The following resolution was adopted upon a motion by Chair Pro Tem Nelson and seconded by Vice Chair Kelleher. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Croom, Merkowitz, and Simon.

**RESOLUTION NO.: 21-04**

**RE: Approval of CY'20 Third Quarter Budget  
Amendment**

**WHEREAS**, the Housing Opportunities Commission of Montgomery County (“HOC”) refinanced Bauer Park Apartments using tax credit equity on September 1, 2020 and is the managing member of Bauer Park Apartments, LLC, the general partner of Bauer Park Apartments LP (the “Partnership”); and

**WHEREAS**, HOC’s budget policy requires a budget be prepared and adopted for the Partnership; and

**WHEREAS**, a CY’21 budget for the Partnership was prepared and approved by the Commission on November 4, 2020; and

**WHEREAS**, the CY’20 Third Quarter Budget Amendment will incorporate a budget for the period of September 1 through December 31 2020.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County, acting for itself and on behalf of Bauer Park Apartments, LLC, as its managing member, acting for itself and on behalf of Bauer Park Apartments LP, as its general partner, hereby approves the CY’20 Third Quarter Budget Amendment for the Partnership.

**4. Authorization to Write-off Uncollectible Tenant Accounts Receivables**

Cornelia Kent, Chief Financial Officer, and Eugenia Pascual, Controller, were the presenters.

The following resolution was adopted upon a motion by Chair Pro Tem Nelson and seconded by Commissioner Croom. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Croom, Merkwitz, and Simon.

**RESOLUTION NO.: 21-05**

**RE: Authorization to Write-off  
Uncollectible Tenant Accounts Receivable**

**WHEREAS**, the current policy of the Housing Opportunities Commission of Montgomery County (“HOC”) is (i) to provide for an allowance for tenant accounts receivable balances that are delinquent for more than ninety (90) days; and (ii) to propose the write-off of former tenant balances;

**WHEREAS**, staff periodically proposes the write-off of uncollected former tenant balances which updates the financial records to accurately reflect the receivables and the potential for collection; and

**WHEREAS**, the proposed write-off of former tenant accounts receivable balances for the period of July 1, 2020 – September 30, 2020 is \$77,605, consisting of \$40,603 from Opportunity Housing properties, \$20,825 from Supportive Housing, \$15,807 from RAD Properties, and \$370 from Public Housing.

**NOW, THEREFORE, BE IT RESOLVED** that the Housing Opportunities Commission of Montgomery County authorizes and directs the Executive Director, or his designee, without further action on its part, to take any and all actions necessary and proper to write off \$77,605 in uncollectible accounts receivable related

to (i) tenant balances that are delinquent for more than ninety (90) days, and (ii) former tenant balances, including the execution of any and all documents related thereto.

**5. Approval to Extend the Use of the PNC Bank, N.A. Line of Credit to Finance Commission Approved Actions Related to the Lindsay Ford Holdings Site (Wheaton Gateway)**

Cornelia Kent, Chief Financial Officer, and Eugenia Pascual, Controller, were the presenters.

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, Byrd, Croom, Merkwowitz, and Simon.

**RESOLUTION NO.: 21-06**

**RE: Approval to Extend the Use of the PNC Bank, N. A. Line of Credit to Finance Commission Approved Actions related to the Lindsay Ford Holdings Site (Wheaton Gateway)**

**WHEREAS**, on January 9, 2019, the Housing Opportunities Commission of Montgomery County (“HOC” or the “Commission”) authorized a taxable draw of up to \$11,635,000 from the PNC Bank, N.A. Line of Credit (“LOC”) to fund the acquisition of the “Lindsay Ford Holding Site,” composed of eleven parcels adjacent to The Ambassador Apartments approximating 498,087 square feet, costs related to the acquisition of the Lindsay Ford Holding Site, and reimbursement of costs incurred by the Commission related to title and earnest money deposits;

**WHEREAS**, as of September 30, 2020, the actual draw on the LOC was \$11,530,881 and the unobligated amount was \$104,119;

**WHEREAS**, staff recommends extending the maturity date of the draw through September 30, 2021 at the taxable rate of LIBOR plus 90 basis points; and

**WHEREAS**, the estimated cost, as of December 9, 2020, under the LOC is expected to be approximately \$120,830.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that it hereby approves extending through September 30, 2021, the use of the PNC Bank Line of Credit to finance the Commission approved actions related to the Lindsay Ford Holdings Site.

**6. Approval to Renew the Property Management Contract at Tanglewood Cluster**

Jay Berkowitz, Asset Manager, was the presenter.

The following resolution was adopted upon a motion by Chair Pro Tem Nelson and seconded by Commissioner Byrd. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Croom, Merkwowitz, and Simon.

**RESOLUTION NO.: 21-07**

**RE: Approval to Renew Property Management Contract for Tanglewood and Sligo Hills**



**Apartments, Dale Drive, Southbridge  
Apartments, and Manchester Manor**

**WHEREAS**, the Housing Opportunities Commission of Montgomery County (“HOC”) is the sole member of HOCMC, LLC, the general partner of Tanglewood and Sligo LP (“Tanglewood LP”), and Tanglewood LP owns the development known as Tanglewood and Sligo Hills Apartments located in Silver Spring, Maryland (“Tanglewood and Sligo”);

**WHEREAS**, HOC owns the development known as Dale Drive located in Silver Spring, Maryland (“Dale Drive”);

**WHEREAS**, HOC owns the development known as Southbridge Apartments located in Takoma Park, Maryland (“Southbridge”);

**WHEREAS**, HOC is the general partner of Manchester Manor Apartments Limited Partnership (“Manchester LP”), and Manchester LP owns the development known as Manchester Manor located in Silver Spring, Maryland (“Manchester”); and

**WHEREAS**, staff desires to renew the current property management contract at Tanglewood and Sligo, Dale Drive, Southbridge, and Manchester for one year with Residential One Management.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County, acting for itself and on behalf of HOCMC, LLC, as its sole member, acting for itself and on behalf of Tanglewood LP, as its general partner, that the Executive Director is hereby authorized and directed to execute a one-year renewal of the property management contract at Tanglewood and Sligo.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County, that the Executive Director is hereby authorized and directed to execute a one-year renewal of the property management contract at Dale Drive.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County that the Executive Director is hereby authorized and directed to execute a one-year renewal of the property management contract at Southbridge.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County, acting for itself and on behalf of Manchester LP, as its general partner, that the Executive Director is hereby authorized and directed to execute a one-year renewal of the property management contract at Manchester.

**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 transactions contemplated herein, including the execution of any documents related thereto.

**B. Development and Finance Committee – Com. Simon, Chair**

- 1. Sandy Spring Missing Middle Initiative:** Predevelopment Budget Increase and Approval of the Executive Director to Execute Task Order to Engage Selzer, Gurvitch, Rabin, Wertheimer & Polott, P.C. for Legal Services

Cornelia Kent, Chief Financial Officer, and Olutomi Adebo, Assistant Budget Officer, were the presenters.

The following resolution was adopted upon a motion by Chair Pro Tem Nelson and seconded by Commissioner Byrd. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Croom, Merkwowitz, and Simon.

**RESOLUTION NO.: 21-08**

**RE: Sandy Spring Missing Middle Initiative:  
Predevelopment Budget Increase and Approval of  
the Executive Director to Execute Task Order to  
Engage Selzer, Gurvitch, Rabin, Wertheimer &  
Polott, P.C. for Legal Services**

**WHEREAS**, the Housing Opportunities Commission of Montgomery County (“HOC” or “Commission”), 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, is authorized thereby to effectuate the purpose of providing affordable housing, including providing for the acquisition, construction, rehabilitation and/or permanent financing of rental housing properties which provide a public purpose; and

**WHEREAS**, “Missing Middle” housing is a range of multi-unit or clustered housing types—compatible in scale with detached single-family homes—that help meet the growing demand for walkable urban living; and

**WHEREAS**, on January 14, 2015, the Commission approved the purchase of a single family house and lot located at 617 Olney Sandy Spring Road (“617 O-SS”), immediately adjacent to Sandy Spring Meadow Apartments, a property that is owned by an HOC affiliate; and

**WHEREAS**, the acquisition of 617 O-SS with HOC’s ownership interest in Sandy Spring Meadow Apartments, created a larger property aggregation that staff believes is a strong candidate for a Missing Middle development (the “Pilot Missing Middle Initiative”); and

**WHEREAS**, On March 4, 2020, the Commission approved \$75,000 in feasibility funding from the Opportunity Housing Reserve Fund to explore a joint venture between the Maryland-National Capital Park and Planning Commission and HOC on the Pilot Missing Middle Initiative; and

**WHEREAS**, On July 1, 2020, the Commission approved an additional \$330,000 in predevelopment funding from the Opportunity Housing Reserve Fund to continue predevelopment activities at the Pilot Missing Middle Initiative, to be funded by a draw on the Opportunity Housing Reserve Fund; and

**WHEREAS**, on November 16, 2020 staff solicited four (4) firms from its pool of legal counsel established by the Commission on April 3, 2019 with the applicable expertise to provide legal counsel for land use work on the Pilot Missing Middle Initiative; and

**WHEREAS**, one of the four firms, Selzer, Gurvitch, Rabin, Wertheimer & Polott, P.C. (“Selzer Gurvitch”) provided the most responsive and responsible bid for a not to exceed cost of \$251,381.25; and

**WHEREAS**, staff is requesting that the Commission approve an amount up to \$280,000, which includes the Task Order of \$251,381.25 plus a, 11.38% (\$28,618.75) contingency to account for any unforeseen issues that could arise before the project is approved; and

**WHEREAS**, to fully fund the task order, the predevelopment budget authorization for legal work requires an increase from \$100,000 to \$280,000.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that it hereby authorizes an increase to the predevelopment budget for the Sandy Spring Pilot Missing Middle Initiative of \$180,000 to be funded by a draw on the Opportunity Housing Reserve Fund.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County that it authorizes the Executive Director, or his designee, to execute a Task Order under the current pool contract with Selzer, Gurvitch, Rabin, Wertheimer & Polott, P.C. for \$251,381.25.

**BE IT FURTHER RESOLVED** that the Housing Opportunities Commission of Montgomery County authorizes and directs the Executive Director, or his designee, without further action on its part, to take any and all other actions necessary and proper to carry out the transactions contemplated herein including, but not limited to, the execution of any and all documents related thereto.

**2. Bond Counsel Contracts:** Renewal with Kutak Rock, LLP and Ballard Spahr, LLP in Accordance with the Current Contracts, Prior Approvals, and the Procurement Policy

Kayrine Brown, Deputy Executive Director, was the presenter.

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, Byrd, Croom, Merkwowitz, and Simon.

**RESOLUTION NO.: 21-09**

**RE: Bond Counsel Contracts: Renewal with Kutak, Rock LLP and Ballard Spahr, LLP in Accordance with the Current Contracts, Prior Approvals, and the Procurement Policy**

**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, as further provided in that certain Memorandum of Understanding by and between the Commission and Montgomery County, Maryland, dated June 29, 2018, the Commission is authorized to issue its notes and bonds from time to time to fulfill its corporate purposes; and

**WHEREAS**, the ability to issue notes and bonds to the capital markets is subject to the issuance of an opinion from nationally recognized bond counsel concerning (1) the validity of the bonds, and (2) the

excludability of interest on the bonds from gross income for federal income tax purposes, without which the bonds are not normally marketable; and

**WHEREAS**, on April 5, 2017, the Commission appointed Kutak Rock LLP (“Kutak”) and Ballard Spahr LLP (“Ballard”) as bond counsel for its financing programs for a three-year term, with two optional one year renewals that must be approved by the Commission; and

**WHEREAS**, the first renewal term which was approved by the Commission on January 8, 2020 will end on April 9, 2021 and staff wishes to avail itself of one final renewal from April 10, 2021 through April 9, 2022; and

**WHEREAS**, the Commission is satisfied with the services that are provided by bond counsel and wishes to renew the contracts for one year in accordance with provisions of the existing contracts and the Procurement Policy.

**NOW, THEREFORE BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that it approves the renewal of the existing contracts with Kutak and Ballard as its bond counsel for one year in accordance with all prior approvals, including the fees schedules submitted with the initial proposal that provide for a 3% annual increase for Ballard after the first three years.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County that it approves the maximum aggregate contract amount of \$600,000 annually.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County that the Executive Director, or his designee, is authorized, without any further action on its part, 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. Metropolitan:** Approval to Select Miner Feinstein Architects, Authorization for the Executive Director to Negotiate and Execute a Contract for the Renovation of The Metropolitan Apartments and Authorization to Make Loans to Metropolitan Bethesda Limited Partnership and Metropolitan Development Corporation

Kayrine Brown, Deputy Executive Director, and Hyunsuk Choi, 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, Byrd, Croom, Merkowicz, and Simon.

**RESOLUTION NO: 21-10**

**RE: Approval to Select Miner Feinstein Architects, Authorization for the Executive Director to Negotiate and Execute a Contract for the Renovation of The Metropolitan Apartments and Authorization to Make Loans to Metropolitan Bethesda Limited Partnership and Metropolitan Development Corporation**

**WHEREAS**, The Metropolitan Apartments (“the “Property”) was constructed in 1997 with a 14-story, 308-unit high-rise apartment building located at 7620 Old Georgetown Road, Bethesda and currently consists of 216 market rate units and 92 affordable units; and

**WHEREAS**, the Property is owned by The Metropolitan of Bethesda Limited Partnership (the “Metropolitan LP”), which is wholly owned by the Housing Opportunities Commission of Montgomery County (the “Commission” or “HOC”), and The Metropolitan Development Corporation (the “Metropolitan Corporation”), which is wholly controlled by HOC; and

**WHEREAS**, the 216 market rate units benefitted from minor renovations completed in 2013, but are in need of more significant renovations to remain competitive with other market rate units as well as to address aging systems; and

**WHEREAS**, the 92 affordable units have not had any renovations since they were placed in service; and

**WHEREAS**, on September 9, 2020, the Commission approved funding in an amount up to \$120,000 to cover the due diligence and feasibility costs for renovations to the Property; and

**WHEREAS**, on October 28, 2020, staff issued a solicitation for Architectural Services for the renovation of the Property from the Architecture and Accessibility Consultant Pool (established under Request for Qualifications #2080); and

**WHEREAS**, staff received five proposals from Hord Coplan Macht, Kishimoto Gordon Dalaya, KTG Architecture + Planning, Miner Feinstein Architects (“MFA”), and Zavos Architecture + Design; and

**WHEREAS**, the evaluation team completed its review of the proposals and, based on the established criteria, MFA scored the highest with an average score of 82.3%; and

**WHEREAS**, staff requests \$699,622 for the predevelopment budget for the Property to be funded with a loan from the Opportunity Housing Reserve Fund (“OHRF”) for MFA to perform services to move the design development from concept through construction drawings, for preparation for a Low Income Housing Tax Credit application for submission to the Department of Housing and Community Development, and other related services; and

**WHEREAS**, staff requests an additional \$100,000 for the predevelopment budget to be funded with a loan from the OHRF for interior design services to cover concept through construction drawings; and

**WHEREAS**, staff recommends that the Commission approve the selection of Miner Feinstein Architects as architect for renovations at the Property and approve a total of \$799,622 of Predevelopment Funds for design services for the rehabilitation of the Property to be funded from the OHRF, which shall take the form of a loan to the Metropolitan LP in the amount of \$239,887 and a loan to the Metropolitan Corporation in the amount of \$559,735, to be repaid upon closing of renovation financing; and

**WHEREAS**, the Commission currently intends and reasonably expects to participate in tax-exempt borrowings to finance such capital expenditures in an amount not to exceed \$100,000,000, *all*

*or a portion of which may reimburse* the Commission for the portion of such capital expenditures incurred or to be incurred subsequent to the date, which is 60 days prior to the date hereof, but before such borrowing, and the proceeds of such tax-exempt borrowing will be allocated to reimburse the Commission's expenditures within 18 months of the later of the date of such capital expenditures or the date that the project is placed in service (but in no event more than three years after the date of the original expenditure of such moneys); and

**WHEREAS**, HOC will continue to evaluate its options for construction and permanent financing, which may include the issuance of tax-exempt governmental bonds or such other tax-exempt bonds that are permissible under provisions of the Internal Revenue Code, the proceeds of which would fund a permanent mortgage that would be insured by FHA in accordance with the Risk Share mortgage program; and

**WHEREAS**, the Commission hereby desires to declare its official intent, pursuant to Treasury Regulation §1.150-2, to reimburse the Commission for such capital expenditures with the proceeds of the Commission's future tax-exempt borrowing for such projects named in this Resolution.

**NOW, THEREFORE, BE IT RESOLVED** that the Housing Opportunities Commission of Montgomery County approves the selection of Miner Feinstein Architects as architect for renovations of the Property and authorizes the Executive Director, or his designee, to negotiate and execute a contract.

**BE IT FURTHER RESOLVED** that the Housing Opportunities Commission of Montgomery County approves a loan to the Metropolitan LP in an amount up to \$239,887 and a loan to the Metropolitan Corporation in an amount up to \$559,735 (total of \$799,622) to be funded from the OHRF for the Predevelopment Funds for design services for the financing and renovation of the Property, which will be repaid from the proceeds of the renovation financing at closing.

**BE IT FURTHER RESOLVED** that the Housing Opportunities Commission of Montgomery County, as the general partner of the Metropolitan LP, accepts a loan from HOC in an amount up to \$239,887.

**BE IT FURTHER RESOLVED THAT:**

Section 1. Declaration of Official Intent. The Commission presently intends and reasonably expects to finance costs related to the predevelopment, development, and equipping of the Metropolitan, with moneys currently contained in its Opportunity Housing Reserve Fund, and General Fund Property Reserve Account, County Revolving Fund accounts, and any other funds of the Commission so designated for use by the Commission.

Section 2. Dates of Capital Expenditures. All of the capital expenditures covered by this Resolution, which may be reimbursed with proceeds of tax-exempt borrowings, will be incurred not earlier than 60 days prior to the date of this Resolution except preliminary expenditures as defined in Treasury Regulation Section 1.150-2(f)(2) (e.g. architect's fees, engineering fees, costs of soil testing and surveying).

Section 3. Issuance of Bonds or Notes. The Commission presently intends and reasonably expects to participate in tax-exempt borrowings of which proceeds in an amount not to exceed \$100,000,000 will be applied to reimburse the Commission for its expenditures in connection with the project.

Section 4. Confirmation of Prior Acts. All prior acts and doings of the officials, agents and employees of the Commission, which are in conformity with the purpose and intent of this Resolution, and in furtherance of the Property, shall be and the same hereby are in all respects ratified, approved and confirmed.

Section 5. Repeal of Inconsistent Resolutions. All other resolutions of the Commission, or parts of resolutions related to the Property which are inconsistent with this Resolution are hereby repealed to the extent of such inconsistency.

Section 6. Effective Date of Resolution. This Resolution shall take effect immediately upon its passage.

**BE IT FURTHER RESOLVED** that the Housing Opportunities Commission of Montgomery County, on behalf of itself and as the general partner of the Metropolitan LP, authorizes and directs the Executive Director, or his designee, without further action on their respective parts, to take any and all other actions necessary and proper to carry out the transactions contemplated herein including, but not limited to, the execution of any and all documents related thereto.

- 4. Stewartown Homes:** Financing Plan, Feasibility, and Public Purpose for Stewartown Homes; Issuance of a Commitment, and Loan to HOC at Stewartown Homes, LLC for Acquisition, Construction, and Permanent Financing; and Borrower Acceptance of Loan in Accordance with the Finance Plan

Kayrine Brown, Deputy Executive Director, and Victoria Dixon, Senior Multi-Family Underwriter, were the presenters.

The following resolutions were adopted upon a motion by Chair Pro Tem Nelson and seconded by Commissioner Croom. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Croom, Merkwitz, and Simon.

**RESOLUTION NO.: 21-11**

**RE: Approval of the Financing Plan, Feasibility and Public Purpose for Stewartown Homes; Authorization to Issue Loans to HOC at Stewartown Homes, LLC for Acquisition and Construction Financing; Authorization to Issue a Commitment for up to \$16 Million in Permanent Financing; and, Authorization for the Borrower to Accept Loans 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, as further provided in that certain Memorandum of Understanding by and between the Commission and Montgomery County, Maryland, dated June 29, 2018, the Commission is authorized to issue its notes and bonds from time to time to fulfill its corporate purposes, including providing for the acquisition,



construction, rehabilitation and/or permanent financing or refinancing of multifamily rental housing properties which provide a public purpose; and

**WHEREAS**, Stewartown Homes (the “Property”) is an existing 94-unit income-restricted residential community located at 9310 Merust Lane, Gaithersburg, Maryland owned by MV Affordable Housing Associates Limited Partnership (“Seller”); and

**WHEREAS**, the Property will be acquired by in a single purpose entity known as HOC at Stewartown Homes, LLC (“Borrower”), which will be controlled by HOC MM Stewartown Homes, LLC (“Managing Member”) an entity controlled by HOC; and

**WHEREAS**, the Borrower proposes for the Property to serve households with incomes at or below 60% of the Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area Median Income (“AMI”), provided that the low income set-asides for the tax-exempt financing will be observed; and

**WHEREAS**, on April 1, 2020, the Commission approved the selection of Boston Capital as the Low Income Housing Tax Credit (“LIHTC”) syndicator and authorized the Executive Director to begin negotiating an Operating Agreement to admit an associated LIHTC investor as a non-managing member of the Borrower, with HOC remaining in control of the Borrower as the sole member of the Managing Member entity; and

**WHEREAS**, on December 9, 2020, the Commission approved the final development plan totaling \$38.5 million for the Property as a 94-unit, income-restricted community, which included (1) predevelopment funding of up to \$700,000 from the Operating Housing Reserve Fund, which will be subject to repayment upon closing of the transaction, (2) authorization to negotiate and execute an Operating Agreement with the new LIHTC investor, (3) authorization to execute a contract with Harkins Builders as General Contractor for the renovations, (4) authorization to negotiate with the Montgomery County Department of Housing and Community Affairs (“DHCA”) for assignment of the existing \$2.1 million loan from the Seller to the Borrower (“County Loan”), and (5) Seller’s acceptance of all or some of the purchase price for sale of the Property to be provided in the form of a subordinate note (“Seller Note”); and

**WHEREAS**, the Commission has provided a loan of up to \$1,817,646 to the Seller to prepay the previous fixed rate mortgage on the Property, funded from proceeds of the PNC Bank N.A. Real Estate Line of Credit (“RELOC”), which is to be repaid from sale proceeds of the Property; and

**WHEREAS**, staff explored a variety of options for the estimated \$38.1 million acquisition, rehabilitation and permanent financing for the Property, and determined to use a number of sources including (1) the issuance of private activity, short and long-term, tax-exempt bonds in an amount up to \$16 million to fund a loan for costs of acquisition, rehabilitation, and equipping the Property, enhanced by FHA Risk Sharing (“Mortgage Loan” or “Permanent Loan”); (2) LIHTC equity estimated at \$10.1 million; (3) a subordinate County Loan of approximately \$2.1 million from the DHCA, funded from previously contributed sources to the Property; and (4) a subordinate Seller Note of approximately \$10.3 million (collectively, the “Financing Plan”); and

**WHEREAS**, Commission and the Borrower have applied for a Letter of Reservation for 4% LIHTC from the Maryland Department of Housing and Community Development, which will enable the Borrower to raise approximately \$10.1 million in equity to pay part of its acquisition and development costs; and



**WHEREAS**, the Property will require an allocation of a portion of the Commission’s tax-exempt volume cap in an amount not to exceed \$16 million; 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, and that by providing 94 units at or below 60% of the AMI, the Property will provide significant public purpose supporting an allocation of tax-exempt volume cap (“Feasibility and Public Purpose”).

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that the Financing Plan and Feasibility and Public Purpose, 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 allocation of tax-exempt volume cap in an amount not to exceed \$16,000,000 for the issuance of short and long-term bonds to finance the transaction and for the Commission, as conduit lender, to use those bond proceeds to make a tax-exempt Mortgage Loan to Borrower with a maximum term of up to 42 years to fund development of the Property, which will be subject to conversion to a Permanent Loan phase.

**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 \$16,000,000, which 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 shall assume 25% of the risk while HUD shall assume 75% for the transaction.

**BE IT FURTHER RESOLVED** that the Housing Opportunities Commission of Montgomery County, acting on behalf of itself and on behalf of Seller, as its general partner, that the Seller is authorized to provide the Seller Note to Borrower.

**BE IT FURTHER RESOLVED** that the Housing Opportunities Commission of Montgomery County, acting on behalf of itself and on behalf of the Managing Member, acting for itself and on behalf of Borrower accepts the Mortgage Loan, Permanent Loan, County Loan, and Seller Note for the financing closing, which may occur separate and apart from the LIHTC equity closing.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County, acting on behalf of itself and on behalf of the Managing Member, acting for itself and on behalf of Borrower, that the Executive Director, or a duly appointed designee of the Executive Director of HOC, 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.

*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 \$16,000,000 FOR THE PURPOSE OF FINANCING A MORTGAGE LOAN TO BE INSURED UNDER THE FHA RISK-SHARING PROGRAM FOR THE ACQUISITION, REHABILITATION AND EQUIPPING OF STEWARTOWN HOMES, A MULTIFAMILY RESIDENTIAL RENTAL PROJECT FOR OCCUPANCY BY PERSONS OF ELIGIBLE INCOME TO BE OWNED BY HOC AT STEWARTOWN HOMES, LLC; AUTHORIZING THE EXECUTION AND DELIVERY OF A SERIES INDENTURE, CERTAIN TAX 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 [BOFA SECURITIES, INC. 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; 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”), (i) to make moneys available for the acquisition, rehabilitation and equipping of Stewartown Homes (the “Development”), to be owned and operated by HOC at Stewartown Homes, LLC (the “Borrower”), the managing member of which is controlled by the Commission, (ii) if necessary, to make a deposit to the Reserve Fund pursuant to the Trust Indenture and the 2021 A Series Indenture, and (iii) to fund the costs of issuance of the 2021 A Bonds in the amount set forth in the 2021 A Series Indenture and the Tax Documents (as defined herein), all in accordance with the financing plans approved by the Commission in connection with the Development on January 13, 2021 (the “Financing Plan”); 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 Series Indenture and, as hereinafter defined, the Offering Documents, the Contract of Purchase, the Tax 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 \$16,000,000 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 Series Indenture and shall be limited obligations of the Commission, secured by and payable solely from moneys and other assets pledged therefor under the Indenture and the 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 Series Indenture in such form or forms as shall be approved by such officers, the execution of such 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 Series Indenture and to attest the same.*

**4. Tax 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 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 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 with the proceeds of the 2021 A Bonds 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 rehabilitation of the Development, in its capacity as issuer of the 2021 A Bonds and in its capacity as the owner of a membership interest in 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 [BoFA Securities, Inc. 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 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 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 Kutak Rock LLP, Washington, D.C., 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 Series Indenture, the Contract of Purchase, the Tax 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*

**5. Westside Shady Grove:** Approval to Authorize the Executive Director to Execute a Guaranteed Maximum Price (“GMP”) Contract with Bozzuto Construction Company

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

The following resolution was adopted upon a motion by Chair Pro Tem Nelson and seconded by Vice Chair Kelleher. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Croom, Merkwowitz, and Simon.

**RESOLUTION NO.: 20-12**

**RE: Approval to Authorize the Executive Director to Execute a Guaranteed Maximum Price (GMP) Contract with Bozzuto Construction Company**

**WHEREAS**, on December 18, 2019, the Housing Opportunities Commission (“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 earning at or below 65% of Area Median Income (“AMI”) and 67 units restricted to households earning 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**, on December 9, 2020 under Resolution 20-86, the Commission approved the Final Development Plan and related activities including: Authorization for the Executive Director to Accept 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 \$15M, and Authorization to Advance Funds in an Amount Up to \$1.6M for the Payment to Secure Building Permits and Bind the Builder's Risk Insurance; and

**WHEREAS**, on December 9, 2020 under Resolution 20-87, the Commission approved the Financing Plan and related activities including; Feasibility, Public Purpose and the Bond Authorizing Resolution for West Side 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.

**WHEREAS**, staff recommends approval to authorize the Executive Director to execute a Guaranteed Maximum Price (GMP) Contract with Bozzuto Construction Company not to exceed \$76,417,405; and

**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 authorization for the Executive Director to execute on behalf of Owner a Guaranteed Maximum Price (GMP) Contract with Bozzuto Construction Company not to exceed \$76,417,405.

**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.

**V. ITEMS REQUIRING DELIBERATION and/or ACTION**

**1. Wheaton Gateway:** Approval of the Concept Plan for the Wheaton Gateway Development

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

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

**RESOLUTION NO.: 21-13**

**RE: Approval of the Sketch Plan and Submission for the Wheaton Gateway Development**

**WHEREAS**, the Housing Opportunities Commission of Montgomery County ("HOC" or the "Commission") is a majority owner in the aggregate redevelopment of the eight parcels acquired by HOC two years ago generally located at 11250 Veirs Mill Road, the former Mattress Firm site located at 11200 Veirs Mill Road, and the neighboring site of the former Ambassador Apartments ("Wheaton Gateway"); and

**WHEREAS**, on February 5, 2020, the Commission approved and authorized the submission of a concept plan, as defined by the Montgomery County Planning Department ("Planning"), to Planning to advance the predevelopment efforts of Wheaton Gateway; and

**WHEREAS**, the concept plan approved by the Commission on February 5, 2020, included three buildings to be delivered in three construction phases (“Concept Plan”) – with the first phase identified as a 322-unit, 12-story multifamily building on top of approximately 22,500 square feet of retail; the second phase identified as a 308-unit, 12-story multifamily building on top of approximately 6,000 square feet of retail; and the third phase identified as a 210-unit, six-story age-restricted building on top of approximately 6,000 square feet of retail; and

**WHEREAS**, the design and development team for Wheaton Gateway has further refined and advanced the development concept for Wheaton Gateway such that an application for sketch plan, as defined by Planning, can be made to Planning for approval by the Montgomery County Planning Board (“Planning Board”); and

**WHEREAS**, the proposed sketch plan for Wheaton Gateway includes three buildings to be delivered in three construction phases (“Sketch Plan”) – with the first phase identified as a 350-unit, 12-story multifamily building on top of approximately 25,000 square feet of commercial space; the second phase identified as a 340-unit, 12-story multifamily building on top of approximately 25,000 square feet of commercial space; and the third phase identified as a 110-unit, six-story age-restricted building with no proposed commercial space; and

**WHEREAS**, the proposed affordability for Wheaton Gateway continues to be no less than 30% of all units set aside at or below Montgomery County’s rent and income limits for moderately priced dwelling units as defined by Montgomery County; and

**WHEREAS**, the design and development of Wheaton Gateway is seeking to meet Passive House standards; and

**WHEREAS**, to further advance predevelopment of Wheaton Gateway, the approval of the Sketch Plan the Planning Board is necessary.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that it approves the Sketch Plan for Wheaton Gateway and authorizes the submission of the Sketch Plan for Wheaton Gateway to the Planning Board.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County, acting for itself and in its capacity as the ultimate controlling member of the Wheaton Gateway owner entity, that the Executive Director of HOC, or his designee, is authorized to take any and all actions necessary and proper to carry out the transactions and actions contemplated herein.

Based upon this report and there being no further business to come before this session of the Commission, the open session adjourned at 6:06 p.m.

Respectfully submitted,

Stacy L. Spann  
Secretary-Treasurer

/pmb



# Consent Items

# APPROVAL TO TEMPORARILY AMEND THE BYLAWS OF THE HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY

**FEBRUARY 3, 2021**

- Due to the outbreak of the coronavirus disease COVID-19, in March 2020 Governor Larry Hogan declared a state of emergency, which is still ongoing.
- HOC's Bylaws provide that at the Annual Meeting, a quorum must consist of four (4) Commissioners *physically* present.
- In order to comply with the current social distancing guidelines, staff recommends that HOC's Bylaws be temporarily amended to allow the Annual Meeting to take place virtually.

**RESOLUTION: 21 -14**

**RE:** Approval to Temporarily Amend the Second Amended and Restated Bylaws of the Housing Opportunities Commission of Montgomery County

**WHEREAS**, the Housing Opportunities Commission of Montgomery County (“HOC” or “Commission”), a public body corporate and politic duly created, organized, and existing under the laws of the State of Maryland, is authorized pursuant to the Housing Authorities Law, organized under Division II of the Housing and Community Development Article of the Annotated Code of Maryland (the “Act”), to carry out and effectuate the purpose of providing affordable housing and is governed by the Act and its bylaws;

**WHEREAS**, the Commission’s bylaws provide that at the Annual Meeting, a quorum must consist of four (4) Commissioners physically present;

**WHEREAS**, the ongoing response to COVID-19 requires the community to participate in social distancing measures, which includes participating in meetings remotely;

**WHEREAS**, in order to adequately respond to the current state of emergency, staff recommends temporarily amending HOC’s bylaws to allow HOC to continue to operate and transact business;

**WHEREAS**, HOC’s bylaws shall be temporarily amended by adding the following provision: “Article III – MEETINGS, Section 11. *State of Emergency*. Notwithstanding anything in these Second Amended and Restated Bylaws to the contrary, in the event there is a federal, state, and/or local state of emergency, or other similar governmental emergency, all the Commissioners may participate and vote on matters by teleconference or electronic medium at the Annual Meeting as long as (i) a quorum of the Commission participates, and (ii) all Commissioners and staff (and, for open meetings, members of the public) can communicate and view all materials clearly” (the “Temporary Amendment”); and

**WHEREAS**, the Temporary Amendment shall automatically terminate as of March 1, 2021.

**NOW, THEREFORE, BE IT RESOLVED** that the Housing Opportunities Commission of Montgomery County hereby approves and adopts the Temporary Amendment, which shall automatically terminate as of March 1, 2021.

**I HEREBY CERTIFY** that the foregoing Resolution was adopted by the Housing Opportunities Commission of Montgomery County at an open session conducted on February 3, 2021.

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Patrice M. Birdsong  
Special Assistant to the Commission

# Committee Reports and Recommendations for Action

# Budget, Finance & Audit Committee

# **COUNTY FY'22-27 CAPITAL IMPROVEMENTS PROGRAM (CIP) BUDGET: AUTHORIZATION TO SUBMIT REDUCED COUNTY FY'22-27 CAPITAL IMPROVEMENTS PROGRAM (CIP) BUDGET**

**February 3, 2021**

- On September 9, 2020, HOC Submitted the County FY'22-27 Capital Improvements Program (CIP) Budget for FY'22-27.
- The County Office of Management and Budget (OMB) requested that HOC submit a County FY'22-27 Capital Improvement Program Budget reduction of \$125,000 in order to help close the County budget gap.
- The reduction was due to OMB by December 29, 2020; however, staff requested an extension to allow the Commission to approve the submission.

## MEMORANDUM

**TO:** Housing Opportunities Commission

**VIA:** Stacy L. Spann, Executive Director

**FROM:** Staff: Cornelia Kent                    Division: Finance                    Ext. 9754  
                Terri Fowler                         Ext. 9507  
                Tomi Adebo                             Ext. 9472

**RE:** County FY'22-27 Capital Improvements Program (CIP) Budget: Authorization to Submit  
Reduced County FY'22-27 Capital Improvements Program (CIP) Budget

**DATE:** February 3, 2021

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**BACKGROUND:**

On December 8, 2020, the County Council received a fiscal plan update estimating that FY'21 tax supported revenues are expected to be \$101.5 million less than the FY'21 approved budget, and FY'22 tax supported revenues are expected to be \$163.9 million less than the FY'21-26 Fiscal Plan. At the same time, the first quarter spending projection estimated that the County will have increased expenditures of \$194.0 million when compared to the FY'21 approved budget.

In order to develop CIP savings of approximately \$163 million, all agencies were asked to contribute target reductions in current revenue funded CIP projects.

The Office of Management and Budget (OMB) requested HOC's support to help close the budget gap by reducing the initial FY'22 appropriation request (\$1,250M) for the Supplemental Funds for Deeply Subsidized HOC-owned Units Improvements by \$125,000, similar to what HOC supported in the County's FY'21 Savings Plan.

The target reductions were due to OMB by December 29, 2020; however, staff requested an extension to allow the Commission to approve the submission of the Reduced County FY'22-27 Capital Improvements Program (CIP) Budget

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**ISSUES FOR CONSIDERATION:**

**HOC – FY'22-27 Capital Improvements Program Budget:**

The savings target for the **HOC County Capital Improvements Program** is **\$125,000**. Two projects are dependent upon County Current Revenue; the **Demolition Fund** for the Ambassador and Emory Grove, and the **Supplemental Funds for Deeply Subsidized HOC and Affiliate Owned Unit Improvements**. Staff is proposing that the savings be taken from the Supplemental Funds for Unit



Improvements which was funded at \$1.25 million for FY'22. Based on the average cost of \$60,000 for units requiring full interior and exterior renovations, this savings will delay renovations for two units.

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**BUDGET IMPACT:**

The County's Capital Improvements Program is the primary funding source for the Agency's renovations of deeply subsidized scattered sites.

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**TIME FRAME:**

For informal discussion at the January 29, 2021 Committee meeting. For formal Commission action at the February 3, 2021 meeting. Once approved, the savings plan will be submitted to the County.

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**STAFF RECOMMENDATION**

Staff requests that the Commission authorize the submission of the Reduced County FY'22-27 Capital Improvements Program (CIP) Budget.

**RESOLUTION NO: 21-15**

**RE: County FY'22-27 Capital Improvements Program (CIP) Budget: Authorization to Submit Reduced County FY'22-27 Capital Improvements Program (CIP) Budget**

**WHEREAS**, the Capital Improvements Program (“CIP”) is a program administered by Montgomery County (the “County”) that provides funds for larger long-term investments in facilities, infrastructure, and affordable housing;

**WHEREAS**, the Housing Opportunities Commission of Montgomery County (“HOC”) receives funds from the CIP to further its purpose in providing affordable housing;

**WHEREAS**, the County accepted amendments to the FY’ 22-27 CIP Budget, and requests were submitted to the Office of Management and Budget on September 9, 2020; and

**WHEREAS**, the County Office of Management and Budget requested that HOC submit a FY’22-27 CIP Budget reduction of \$125,000 in order to help close the County budget gap.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that it authorizes staff to submit to the County a FY’22-27 CIP Budget reduction in the amount of \$125,000.

**I HEREBY CERTIFY** that the foregoing Resolution was adopted by the Housing Opportunities Commission of Montgomery County at a regular open meeting conducted on February 3, 2021.

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Patrice Birdsong  
Special Assistant to the Commission

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# Legislative and Regulatory Committee

# **AUTHORIZATION TO IMPLEMENT TEMPORARY CHANGES TO THE ADMINISTRATIVE PLAN IN RESPONSE TO THE CORONAVIRUS DISEASE 19 (COVID-19)**

**February 3, 2021**

- On March 13, 2020, President Trump declared the Coronavirus Disease 2019 (COVID-19) pandemic a national emergency and signed the Coronavirus Aid, Relief and Economic Security (CARES) Act into law on March 27, 2020.
- The CARES Act provides HUD with broad authority to waive statutory and regulatory requirements for the Housing Choice Voucher Program.
- HUD published PIH Notice 2020-33 on November 30, 2020 restating the waivers and alternative requirements previously established on July 2, 2020 in PIH Notice 2020-13. PIH Notice 2020-33 also extends the period of availability for previously established waivers until June 30, 2021.
- HOC temporarily extended the waivers previously adopted by the Commission on September 9, 2020, without board approval in accordance with the waiver flexibility authorized in PIH Notice 2020-33.
- Any informally adopted revision to the Administrative Plan must be adopted by the Board of Commissioners by June 30, 2021. Staff recommends that the Commission approve the temporary modifications to the Administrative Plan as outlined on the attached Exhibit A and resolution.



Commissioners through March 31, 2021. However, any informally adopted revision must be adopted by June 30, 2021.

Staff propose that we extend the adopted waivers in PIH Notice 2020-13 through June 30, 2021. The waivers affect chapters 4, 6, 7, 8, 9, 10, 12, 21 and 22 of the Administrative Plan. The HUD Secretary may establish new waivers and alternative requirements by subsequent Notice. The adopted waivers allow us to continue to serve our most vulnerable customers while reducing the risk of exposure to the virus.

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**ISSUES FOR CONSIDERATION:**

Does the Housing Opportunities Commission of Montgomery County wish to accept staff's recommendation, which is supported by the Legislative and Regulatory Committee, to adopt the temporary changes to the Administrative Plan and authorize the Executive Director, or his designee, to implement the revisions to the Administrative Plan for the Housing Choice Voucher Program?

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**PRINCIPALS:**

Housing Resources Division

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**BUDGET IMPACT:**

There is no impact on the Commission's operating budget.

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**TIME FRAME:**

The Legislative and Regulatory Committee reviewed this item at its meeting on January 25, 2021. For Commission action on February 3, 2021.

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**STAFF RECOMMENDATION & COMMISSION ACTION NEEDED:**

Staff recommend that the Housing Opportunities Commission of Montgomery County accept the recommendation to adopt the revisions to HOC's Administrative Plan in response to COVID-19 and in accordance with PIH Notice 2020-33, and authorize the Executive Director, or his designee, to implement the revisions to the Administrative Plan for the Housing Choice Voucher Program.

## Chapter 4

### ESTABLISHING PREFERENCES AND MAINTAINING THE WAIT

**LIST** [24 CFR Part 5, Subpart D; 982.54(d)(1); 982.204, 982.205, 982.206]

#### INTRODUCTION

It is HOC's objective to ensure that families are placed in the proper order on the wait list and selected from the wait list for admission in accordance with the policies in this Administrative Plan.

This chapter explains how HOC will administer its consolidated wait list for all of its housing programs, including the tenant-based and project-based voucher wait lists, hereinafter referred to as the consolidated list or master list. The tenant-based wait list has five local preferences that HOC adopted to meet local housing needs, define the eligibility criteria for the preferences, and explain HOC's system of applying them. The wait list for housing subsidized with project-based vouchers is maintained as a sub list within the consolidated list. Any family selected to be housed utilizing a project-based voucher is only eligible for a specific bedroom sized unit based on their family size.

By maintaining an accurate wait list, HOC is able to perform the activities which ensure that an adequate pool of qualified applicants is available, so that program funds are used in a timely manner. Each family on the tenant-based wait list may also have its name on the project-based wait list.

#### A. MANAGING THE WAIT LIST

##### **Opening and Maintaining the Wait List**

Opening of the wait list will be announced with a public notice stating that applications for public housing, Housing Choice Voucher and all other wait lists maintained by the **Housing Opportunities Commission of Montgomery County (HOC)** will again be accepted. The public notice will state where, when, and how to apply. The notice will be published in a local newspaper of general circulation and also by any available minority media, including social media. The public notice will state any limitations on who may apply. Wait lists for all sub-jurisdictions and Countywide will be opened and closed at the same time.

The notice will state that applicants already on wait lists for other housing programs must apply separately for this program and such applicants will not lose their place on other wait lists when they apply for public housing. The notice will include the Fair Housing logo and slogan, and will be in compliance with Fair Housing requirements.

HOC intends for the wait list to remain open indefinitely; however, if the Executive Director decides to close the list, the closing of the wait list will also be announced with a public notice. This public notice will state the date the wait list will be closed, and it will be published in a local newspaper of general circulation and by any available minority media, including social media.

## Organization of the Wait List

In July 2015, HOC merged its existing sub-jurisdictional wait lists for the Housing Choice Voucher program and all other housing programs into one combined wait list, referred to herein interchangeably as merged list, master list, merged master list, or wait list, except as specifically noted.

In conjunction with the merge of all of HOC's wait lists, HOC opened its merged master wait list for all programs, and left the merged list open indefinitely or until such time as a determination is made by the Executive Director that there is cause to close the wait list, at which time proper notice will be posted in a local newspaper of general circulation and by any available minority media, including social media.

Only one application may be submitted and it must be submitted by the head of household or his/her designee.

The wait list is maintained in accordance with the following guidelines:

1. The application will be a permanent file. Any contact between HOC and the applicant will be documented in the electronic applicant file.
2. All applications will be maintained in order of date and time of application, and applicable preference(s).
3. Under the merged wait list, one master list is maintained electronically through a proprietary program. All applications and updates to an application are submitted electronically through a proprietary on-line web portal. Paper and telephone submissions are not permitted. To the extent an applicant requires assistance, upon request, staff from HOC is available to assist with electronic submissions.
4. All applicants must give notice of any changes to their application within two weeks of a change. Changes include: change of mailing address, change of email address, change of phone number, change in family composition, change in income, or changes in factors affecting preference points. As noted in paragraph 3, all changes must be done electronically because paper and telephone submissions are not accepted. To the extent an applicant requires assistance, upon request, staff from HOC is available to assist with electronic update submissions.
5. The master wait list is updated daily and applicants' wait list profiles are accessible via the internet on a 24-hour basis.
6. For the Housing Choice Voucher program, HOC maintains one merged master list in order of date-time stamp and any applicable preference(s). However within the master list there are sub-sorted separate lists for certain programs and properties. This includes the Choice Mobility wait list for those customers eligible for



project-based to tenant-based subsidy conversion. See Chapter 22 of this Administrative Plan for more information.

7. HOC entered into Housing Assistance Payments (HAP) contracts to subsidize units at several properties that are operated by third-party managers and/or owners. The individual, property-specific wait lists for these properties are included within the master list but are sorted separately to only reflect applicants who satisfy the various property and programmatic eligibility criteria. More specifically, the details regarding these property-specific wait lists are as follows:
  - i. HOC maintains separate wait lists for Arcola Towers, Elizabeth House, Holly Hall, and Waverly House, which are housing facilities operated for the benefit of senior and/or disabled customers.
  - ii. HOC entered into a HAP contract to subsidize units at Emory Grove, Ken-Gar, Parkway Woods, Sandy Spring Meadow, Seneca Ridge, Town Centre Place, and Washington Square as required as part of the Rental Assistance Demonstration (RAD) program, and required Housing Choice Vouchers. The individual wait lists created for these RAD properties are included in the merged master list but are sorted separately to reflect only those applicants who are eligible for these properties.
  - iii. HOC entered into HAP contracts to subsidize units at several properties that are managed by third-party managers and/or owners. These properties provide supportive services to at-risk populations in the form of Housing Choice Vouchers. Applicants for these programs must meet stringent requirements and are ranked by date and time of application only. The individual wait lists created for these properties are included in the merged master list but are sorted separately to reflect only those applicants who are eligible for these properties.
8. Contact between HOC and wait list applicants for the purposes of selection from the list is documented in the applicant's wait list file.

### **Implementation of RAD Wait List Provisions**

Former public housing (PH) applicants and residents receive priority consideration on the site-based wait lists created within *HOC Housing Path*, HOC's electronic wait list. Prior to the opening of the HOC Housing Path wait list, HOC mailed to all former PH wait list applicants a post card notifying them of the new wait list and instructed them to submit an application. The following policies describe how former PH applicants and residents receive priority consideration for housing at all of HOC's RAD-converted properties and at properties with Project-Based Voucher (PBV) assistance provided using the non-competitive selection process created by the Housing Opportunities Through Modernization Act (HOTMA), and described in Chapter 22, Section G of this Administrative Plan.

In order to provide former PH applicants with the best opportunity to be housed at one of the RAD properties, HOC adopted and follows the procedures listed below:

- Analyze HOC Housing Path to identify former PH wait list applicants and residents that have submitted a new application.
- Issue notices to former PH wait list applicants and residents informing them that they are eligible to receive priority consideration for housing at RAD properties, and instruct them to respond to the notice if they would like to be considered.
- Former PH applicants and residents who respond, but have not submitted a new HOC Housing Path application will be instructed to do so.
- For those families who respond to the notice and/or have submitted a new HOC Housing Path application, HOC will create a separate pool of applications that will receive priority consideration for vacancies at HOC's RAD properties.
- As vacancies become available at RAD properties, applicants will be selected from the priority pool based on their date and time of application to Housing Path.

## **B. WAIT LIST CUSTOMERS (FAMILIES)**

All wait list applicants are required to maintain an e-mail address. To the extent an applicant chooses to use the e-mail address of another person, the applicant is solely responsible for receiving information sent to the listed email address and lack of access to that account is not considered a valid excuse for missing notices. To the extent a family does not have an e-mail address, HOC can assist the family in obtaining a free email account. The applicant is responsible for notifying HOC of any change in their e-mail address. HOC maintains public use computers at all of its HUB locations. Public use computers are also widely available at other public locations such as local libraries. To the extent an applicant requires assistance, upon request, staff from HOC is available to assist with electronic submissions.

All wait list applicants are required to list an address in their Housing Path application. If the applicant is homeless or does not have a permanent address, the applicant can choose to list the address of another person, so long as it is not the address of a current voucher holder. This address is used to send any paper correspondence to the applicant, including required paperwork as part of the selection process. The applicant is solely responsible for receiving information sent to the listed address and lack of access to mail at that address is not considered a valid excuse for missing notices or paperwork. The applicant is responsible for notifying HOC of any change in address.

### **Treatment of Single Applicants**

Single applicants are treated as any other eligible family on the wait list for the tenant-based and project-based voucher wait lists.

**C. WAIT LIST [24 CFR 982.204]**

**Tenant-Based Voucher**

HOC uses a consolidated wait list for the admission of all of its housing programs. The consolidated list includes a sub list for admissions to the tenant-based voucher assistance program.

Except for Special Admissions, applicants are selected from the consolidated wait list in accordance with the policies, preferences, and income targeting requirements defined in this Administrative Plan.

HOC will maintain information that permits proper selection from the wait

list. The wait list contains the following information for each applicant listed:

- . Applicant Name
- . Family Unit Size (number of bedrooms family qualifies for under HOC's subsidy standards)
- . Date of application
- . Qualification for any local preference(s)
- . Racial or ethnic designation of the head of household
- . Targeted program qualifications

**Project-Based Voucher**

HOC maintains separate sub lists for admissions to the project-based voucher (PBV) assistance program. Any applicant that submits an application to the master wait list is also considered for inclusion on the PBV wait list.

Except for Special Admissions, applicants are selected from HOC's wait list in accordance with the policies, preferences, and income targeting requirements defined in this Administrative Plan.

Families are selected from the PBV wait list based on the bedroom size of the unit available at the time of selection.

HOC must maintain information that permits proper selection from the wait list.

The wait list contains the following information for each PBV applicant listed:

- . Applicant Name

- . Family Unit Size (number of bedrooms family qualifies for under HOC's subsidy standards)
- . Date of application
- . Qualification for any local preference(s)
- . Racial or ethnic designation of the head of household
- . Targeted program qualifications

**D. SPECIAL ADMISSIONS** [24 CFR 982.54(d)(e), 982.203]

If HUD awards HOC program funding that is targeted for specifically named families, HOC must admit these families under a Special Admission procedure.

Special admissions families are admitted outside of the regular wait list process. They do not have to qualify for any preferences, nor are they required to be on the program wait list. HOC maintains separate records of these admissions.

The Family Unification Program (FUP) qualifies for special admissions as long as the individuals referred to HOC meet the program definition.

Family Unification Program-Eligible Family (A family that the Public Child Welfare Agency (PCWA) has certified as a family for whom a lack of adequate housing is a primary factor in the imminent placement of the family's child, or children, in out-of-home care, or in the delay of discharge of a child, or children, to the family from out-of-home care, and that the HOC has determined is eligible for a Housing Choice Voucher.)

Family Unification Program-Eligible Youth (A youth that the Public Child Welfare Agency (PCWA) has certified to be at least 18 years old and not more than 24 years old (has not reached his/her 25<sup>th</sup> birthday) who left foster care at age 16 or older and who does not have adequate housing, and that HOC has determined is eligible for a Housing Choice Voucher.) **HOC may accept referrals from child welfare agencies for youth who will leave foster care within 120 days. HOC may execute a contract on behalf of any otherwise eligible FUP youth not more than 25 years of age (not reached their 26<sup>th</sup> birthday). This temporary provision expires June 30, 2021 in accordance with the waiver flexibility authorized in PIH Notice 2020-33.**

The following are examples of types of program funding that may be designated by HUD for families living in a specified unit.

1. A family displaced because of demolition or disposition of a public or Indian housing project;
2. A family residing in a multifamily rental housing project when HUD sells, forecloses or demolishes the project;

3. For housing covered by the Low Income Housing Preservation and Resident Homeownership Act of 1990;
4. A family residing in a project covered by a project-based Section 8 HAP contract at or near the end of the HAP contract term; and
5. A non-purchasing family residing in a HOPE 1 or HOPE 2 project.

Applicant's who are admitted under Special Admissions, rather than from the wait list, are identified in HOC's database with special codes.

At turnover:

If a voucher issued to an FUP-eligible family or FUP-eligible youth under the FUP program is terminated, the voucher is reissued to the extent practicable, to another FUP-eligible family or FUP-eligible youth. If the award on turnover is not practicable, FUP vouchers may be used by HOC for such families based upon local needs.

If a customer served through Special Admissions in the FUP program is on an HOC Program Admissions Wait List (Tenant Based Voucher or Project Based Voucher), the client remains eligible on the wait list for the period of time the list is active. If a client is selected from the Program Wait List and utilizes the voucher, the FUP voucher is reissued, to the extent practicable, to another FUP-eligible family or FUP-eligible youth.

#### **E. WAIT LIST PREFERENCES** [24 CFR 982.207]

When a family is selected from the wait list, the family is invited to an interview and the verification process begins. It is at this point in time that the family's wait list preference(s) are verified. To qualify for a preference, an applicant must provide verification that shows he or she qualified either at the time of the initial application or at the time of selection from the wait list. However, placement based upon preference is dependent on the family still qualifying for the preference at the time of selection.

If the family no longer qualifies to be near the top of the list, because the family does not qualify for a preference, then the family's preference status is removed. Importantly, however, the family will remain on the wait list based upon their original date and time of application. HOC must notify the family in writing of this determination and give the family the opportunity for an informal hearing to appeal the decision.

Once a preference is verified, the family completes a full application, presents Social Security number information, citizenship/eligible immigrant information, and signs the Consent for Release of Information forms.

An applicant is not granted any local preference for the tenant-based and project-based voucher wait lists if any member of the family was evicted from housing assisted under a HUD 1937 Housing Act program during the past three years because of drug-related criminal activity or felonious charged criminal activity.

HOC will grant an exception to such a family if:

- The responsible member has successfully completed a rehabilitation program;
- The evicted person clearly did not participate in or know about the drug-related activity; and/or
- The evicted person no longer participates in any drug related criminal activity.

If an applicant makes a false statement in order to qualify for a local preference, HOC will deny the local preference.

**F. LOCAL PREFERENCES** [24 CFR 5.410]

HOC offers public notice when changing its preference system and the notices are publicized using the same guidelines as those for opening and closing the wait list.

HOC uses the following local preference system:

**First Local Preference** – Displacement: Families who are displaced as a result of a State or County redevelopment project, or a change in the nature of a project that is part of the County plan for maintaining affordable housing, and who are referred by the County Executive’s Office. A signed certification from the County Executive’s office is required for the family to qualify for this preference. [Two Points]

**Second Local Preference** – Residency preference for families who live, work, or have a bona fide offer to work in Montgomery County. To qualify for this preference, evidence is required either at the time of application or at the time of selection from the wait list. HOC will treat graduates of, or active participants in, education or training programs in Montgomery County as residents of Montgomery County if the education or training program is designed to prepare individuals for the job market. To qualify and satisfy this preference, graduates must have graduated after the initial application for housing. [One Point]

**Third Local Preference** – HUD funded 2006 Main Stream Disabled (MSD) program; 15 units. [Two Points]

**Fourth Local Preference** – Veterans: Preference is given for ten (10) veterans and their families. The applicant must be at least 18 years old and a veteran.

HOC verifies the preference with a list of homeless veterans and their families provided by the Montgomery County Department of Health and Human Services (DHHS). [Three Points]

**Fifth Local Preference** – Families with Histories of Homelessness: Preference is given for ten (10) families with histories of homelessness who are currently housed within the Montgomery County Homeless Continuum of Care. The applicant must be at least 18 years old and have at least one minor child (under the age of 18) within the household.

HOC verifies the preference by receiving direct referrals from the Montgomery County Department of Health and Human Services (DHHS). [Three Points]

**Sixth Local Preference** – HUD funded 2017/2018 Mainstream Disabled (MSD) Grant program: Preference is given for Non-Elderly Disabled (NED) families who meet at least one of the following criteria:

1. Transitioning out of institutional or other segregated settings;
2. At serious risk of institutionalization;
3. Homeless; or
4. At risk of becoming homeless.

NED is defined as disabled persons aged 18-62 and can include any member of a household. Eligibility for this preference is initially indicated based on responses to questions on HOC's wait list, which are designed to capture these criteria. Once a NED family is called up for a subsidy based on this preference, HOC staff conducts comprehensive verification of the preference qualifications, as explained in Section M of this Chapter. [Three Points]

### **Treatment of Single Applicants**

Single applicants are treated as any other eligible family on the wait list for the tenant-based and project-based voucher wait lists.

### **G. INCOME TARGETTING**

In accordance with the Quality Housing and Work Responsibility Act of 1998, each fiscal year HOC reserves a minimum of seventy-five (75) percent of its Section 8 new admissions for families whose incomes do not exceed thirty (30) percent of the area median income (AMI). HUD refers to these families as “extremely low-income families.” HOC must admit families who qualify under the Extremely Low-Income limit to meet the income targeting requirement, regardless of preference. This policy applies to the tenant-based and project-based voucher wait lists.

HOC's income targeting requirement does not apply to low-income families continuously assisted, as provided for under the 1937 Housing Act.

HOC is also exempted from this requirement when HOC provides assistance to low income or moderate-income families entitled to preservation assistance under the tenant-based voucher program as a result of a mortgage prepayment or opt-out.

### **H. INITIAL DETERMINATION OF LOCAL PREFERENCE QUALIFICATION**

[24 CFR 5.415]

May 2017

At the time of application, an applicant's entitlement to a local preference may be made on the following basis:

An applicant's certification that they qualify for a preference is accepted without verification at the pre-application. When the family is selected from the wait list for the final determination of eligibility, the preference is verified. To Qualify for the preference,



an applicant must provide verification that shows he or she qualified either at the time of the pre-application or at the time of certification.

If the preference verification indicates that an applicant does not qualify for the preference, the applicant is returned to the wait list (tenant-based or project-based) without the local preference, and given an opportunity for an office meeting.

**L. TARGETED FUNDING** [24 CFR 982.203]

When HUD awards special funding for certain family types, families who qualify are placed on the regular wait list. When a specific type of funding becomes available, the tenant-based and project-based voucher wait lists are searched for the first available family meeting the targeted funding criteria. HOC reserves the right to use this assistance under the “Interim Use” policy. [See Glossary under “Interim Use” for definition].

Applicants who are admitted under targeted funding which are not identified as a Special Admission are identified by codes in the automated system. HOC has the following "Targeted" Programs:

- Veterans Affairs Supportive Housing (VASH)
- Mainstream Allocation Plan for Persons with Disabilities
- Shelter Plus Care
- Welfare-to-Work
- Voucher allocation for Non-Elderly Persons with Disabilities in Support of Designated Housing Plans

For any voucher allocation for Non-Elderly Persons with Disabilities (NED) in Support of Designated Housing Plans, HOC identifies a non-elderly disabled family, as defined by HUD, on HOC’s wait list that will not be housed due to an approved or submitted Designated Housing Plan.

At turnover:

If a voucher issued to a FUP-eligible family under the 2008 FUP program is terminated, the voucher will be reissued, to the extent practicable, to another FUP eligible family. If the award on turnover is not practicable, FUP vouchers may be used by HOC for such families based upon local needs.

Re-issuance upon turnover of vouchers in the Non-Elderly Persons with Disabilities in Support of Designated Housing Plans 2008 allocation will be to Non-Elderly Persons with Disabilities on the wait list.



**J. PREFERENCE AND INCOME TARGETING ELIGIBILITY** [24 CFR

5.410] **Change in Circumstances**

Changes in an applicant's circumstances while on the wait list may affect the family's entitlement to a preference. Applicants are required to update their on-line application when their circumstances of change.

**Cross-Listing of Different Housing Programs and Section 8** [24 CFR 982.205(a)]

HOC maintains a consolidated master wait list for all of its housing programs. An applicant is considered for admission to any program for which they are eligible until such time that documentation is presented which establishes a customer as ineligible for a given housing program(s). If a customer is determined ineligible for the voucher program, their application is maintained on the consolidated wait list so that they may continue to be considered for other housing opportunities.

**Other Housing Assistance** [24 CFR 982.205(b)]

Other housing assistance means a federal, State, or local housing subsidy, as determined by HUD, including public housing.

HOC may not take any of the following actions because an applicant has applied for, received, or refused other housing: [24 CFR 982.205(b)]

- . Refuse to list the applicant on the wait list for tenant-based voucher assistance;
- . Deny any admission preference for which the applicant is currently qualified;
- . Change the applicant's place on the wait list based on a preference, date of application, or other factors affecting selection under HOC's selection policy; or
- . Remove the applicant from the wait list.

However, HOC may remove the applicant from the wait list for tenant-based assistance if HOC has offered the applicant assistance under the Project-Based Voucher program.

**K. ORDER OF SELECTION** [24 CFR 982.207(e)]

HOC's method for selecting applicants from a preference category leaves a clear audit trail which can be used to verify that each applicant was selected in accordance with the method specified in the Administrative Plan.

## **Tenant-Based Voucher Wait List**

### **Local Preferences**

HOC provides the following system to apply local preferences:

Each preference receives an allocation of points. The more preference points an applicant receives, the higher the applicant's position on the wait list.

### **Among Applicants with Equal Preference Status**

Among applicants with equal preference status, the tenant-based voucher wait list was organized by the lottery selection process for the first 365 days after the wait list was opened in the summer of 2015. Thereafter, applicants with equal preference status on the tenant-based voucher wait list are organized by date and time stamp.

## **Project-Based List**

HOC provides the following system to apply local preferences:

Each preference receives an allocation of points. The more preference points an applicant receives, the higher the applicant's position on the wait list.

The PBV sub list is organized by family size and the corresponding bedroom size as follows:

- . One and two person families are eligible for a one-bedroom unit.
- . Three and four person families are eligible for a two bedroom unit.
- . Five and six person families are eligible for a three bedroom unit.
- . Seven and eight person families are eligible for a four bedroom unit.

Exceptions to this policy are made in accordance with HOC's policies of reasonable accommodation for persons with disabilities.

The number of persons per bedroom is subject to compliance with the Montgomery County Code, Chapter 26-5, Space, Use, and Location. Paragraph (b) of Chapter 26-5 is shown below:

b) *Floor area, sleeping.* In every dwelling unit of two or more rooms, every room occupied for sleeping purposes by one occupant must contain at least 70 square feet of habitable space, and every room occupied for sleeping purposes by more than one occupant must contain at least 50 square feet of habitable space for each occupant. However, in a mobile home every room occupied for sleeping purposes by one occupant must contain at least 50 square feet of habitable space; by 2 occupants, at least 70 square feet of habitable space; and by more than 2 occupants, at least an additional 50 square feet of habitable space for each additional occupant.

Among Applicants with equal preference status, the PBV wait list is organized by the regular date-time selection process for each bedroom size.

### **L.1 PROJECT-BASED VOUCHER REFERRALS**

Applicants referred to HOC for housing subsidy through PBVs by way of Offender Reentry programs sponsored by the Silver Spring Interfaith Housing Coalition and Threshold Services, Inc. are granted an eligibility criminal background exception. The participant does not have rights to the HOC Grievance Procedures.

The eligibility exception is not extended to the following individuals:

1. Persons convicted of manufacturing or producing methamphetamine;
2. Any person evicted from federally assisted housing for a serious violation of the lease (and for three years following the eviction);
3. Any person who fails to sign and submit consent forms to obtain information in accordance with the Administrative Plan Part 5, subparts B and F;
4. Any person required under HUD regulation to establish citizenship or eligible immigration status;
5. Any person subject to a life time registration requirement under a state sex offender registration program; and
6. Any persons convicted for violent felonies.

### **L.2 PROJECT-BASED VOUCHER REFERRALS**

In an effort to minimize displacement of families, if a unit that is to be included in the PBV contract is occupied by an eligible family, the in-place family must be placed on the program wait list. When eligibility is determined, the family must be given an absolute selection preference and referred to the project owner for an appropriately size PBV contract.

A preference will be extended through the PBV program (only) for services offered. In selecting families, HOC may give a preference to disabled families who need services offered at a particular project. This preference (more specifically a referral) is limited to the population of families with disabilities that significantly interfere with their ability to obtain and maintain themselves in housing who, without appropriate supportive services, are not able to maintain themselves in housing.

Selection of applicants in the targeted funding Family Unification Program (FUP) 2008 allocation are completed in conjunction with referrals from the Montgomery County Department of Health and Human Services (MCHHS). HOC will accept families certified by the MCHHS as

eligible applicants for FUP. HOC will compare the names provided with the names on the current HOC wait list. Any referred family on the HOC wait list is served first. Those families referred and not on the HOC wait list will be added to the wait list and served based on date of referral or on a first come first served basis.

**M. FINAL VERIFICATION OF PREFERENCES** [24 CFR 5.415]

Preference information on pre-applications is updated as applicants are selected from the wait list. At that time, HOC will obtain necessary verifications of preference(s) at the interview and by third party verification.

**Subsection A – Secondary Review/Credit Checks**

Before issuing vouchers to applicant families, HOC requests a credit report of all new applicant families, all adults (persons 18 years of age and older) who will reside in the assisted household. The credit report is reviewed by HOC. Applicant households claiming they have zero income automatically undergo a credit check review. The information contained in the credit check is used to confirm the information provided to HOC by the family. Specially, the credit report is used to confirm:

1. **Employment:** A credit report will list any employers the applicant has listed in any recent credit applications. If the credit report reveals employment for any adult household member within the last 12 months that was not disclosed, the family will be asked to provide additional documentation to resolve the discrepancy. Failure to disclose current employment may result in denial of participation in the Housing Choice Voucher and Section 8 programs.
2. **Aliases:** A credit report can provide information on other names that have been used for the purposes of obtaining credit. Common reasons for use of other names include a recent marriage or a divorce. If an alias has not been disclosed to HOC, the family will be asked to provide additional evidence of the legal identity of all adult family members.
3. **Current and previous addresses:** A credit report can provide a history of where the family has lived. This is particularly important because HOC provides a residency preference. If the family has provided one address to HOC and the credit report indicates a different address, the family will be asked to provide additional proof of residency. This may include a history of utility bills, bank statements, school enrollment records for children, credit card statements, and/or other relevant documentation. Failure to provide adequate proof could result in denial of the residency preference.
4. **Credit card and loan payments:** A credit report will usually include a list of the family's financial obligations. Examples of the items that may show up include car loans, mortgage loans, student loans, and credit cards payments. HOC will review this information to confirm the income and asset information provided by the family. If the family's current financial obligations (total amount of current

monthly payments) exceed the amount of income reported by the family, HOC will ask the family to disclose how they are currently meeting their financial obligations. Accounts that have been charged off or are significantly delinquent are not included in this calculation. Failure to provide adequate proof of income could result in denial of participation in the Housing Choice Voucher and Section 8 programs.

- 5. Multiple Social Security Numbers:** A credit report may list multiple Social Security numbers if an adult family member has used different Social Security numbers to obtain credit. If the credit report information does not match the information provided by an adult family member, the family member or head of household will be required to obtain written confirmation of the Social Security number that was issued to him/her from the Social Security Administration.

Applicant families are not issued vouchers until all discrepancies between the information provided by the applicant family and the information contained in the credit report have been cleared by the applicant family and approved by HOC.

When discrepancies are found, the family will be contacted by HOC. In most cases, the family will be allowed a maximum of ten (10) business days to provide the additional information. On a case-by-case basis, as a reasonable accommodation, the family may be granted additional time. If additional time is granted, the family receives written notification of the new deadline. No second or additional extensions will be granted. Failure to provide the required information to HOC could result in denial of participation in the Housing Choice Voucher and Section 8 Programs.

When the credit report reveals multiple discrepancies which require interview appointments, HOC will schedule up to two interview appointments. An additional appointment may be scheduled as a reasonable accommodation. Failure to appear at the interview session could result in denial of participation in the Housing Choice Voucher and Section 8 Programs.

**N. PREFERENCE DENIAL** [24 CFR 5.415]

If HOC denies a preference, HOC notifies the applicant in writing of the reasons why the preference was denied and offer the applicant an opportunity for an informal review to appeal the decision. If the preference denial is upheld as a result of the review, or the applicant does not request a review, the preference is removed from the applicant's entry on the wait list, returning the applicant to their regular date-time positioning. Applicants may exercise other rights if they believe they are a victim of discrimination.

If the applicant falsifies documents or makes false statements in order to qualify for any preference, they will be removed from the wait list.

**O. REMOVAL FROM THE WAIT LIST AND PURGING** [24 CFR 982.204(c)]

HOC will not remove an applicant's name from the wait list unless:

1. The applicant requests in writing that their name be removed;



2. The applicant fails to respond to an electronic or written request for information or a request to declare their continued interest in the program; or
3. The applicant does not meet either the eligibility or suitability criteria for the program.
4. The applicant refuses two housing units without good

#### cause. **Obligation to Annually Confirm Application Information**

Each year, or at such time as HOC determines reasonable, HOC will issue notice to all applicants on the wait list requesting that each applicant confirm their continued interest in remaining on the wait list. Failure to renew the information in a timely manner will result in removal from the wait list.

HOC will provide notice to wait list applicants to confirm their continued interest and set a date by which their renewal must be completed. HOC will send notices thirty days, fifteen days, five days, and one day prior to the date when that renewal or confirmation is due.

All notices under this Section are sent by HOC electronically to the last known e-mail address listed on the application. Wait list applicants may also request text message notifications. If a family does not have an e-mail address, HOC can assist the family in obtaining a free email account. It will be the applicant's sole responsibility to check that email account from time to time and to respond to any email and/or SMS text from HOC. To the extent an applicant requires assistance, upon request, staff from HOC is available to assist with electronic submissions.

**Should an applicant not respond to the request to confirm their continued interest in remaining on the wait list by renewing their application or to their notification of selection for a program for any reason, prior to the established deadline, the applicant is removed from the wait list. Reasons for non-response, resulting in removal from the list, include (but are not limited to) negligence in completing the electronic update/application in a timely manner and relocation resulting in a return of the e-notice to HOC with no forwarding email address provided. Applicants removed from the wait list will receive a notification identifying their removal from Housing Path.**

#### **Missed Appointments**

All applicants who fail to keep a scheduled appointment with HOC are sent a written notice of termination of the process for eligibility. That written notification of termination may be sent as an attachment to an e-mail.

HOC will allow the family to reschedule an appointment for good cause. Generally, no more than one opportunity is given to reschedule without good cause, and no more than two opportunities are given for good cause. When good cause exists for missing an appointment, HOC will work closely with the family to find a more suitable time. Applicants are advised of their right to an informal review before being removed from the wait list.

## **Notification of Negative Actions**

Any applicant whose name is being removed from the wait list will be notified by HOC, in writing, that they have ten (10) calendar days from the date of the written correspondence to present mitigating circumstances or request an informal review. The letter will also indicate that their name will be removed from the wait list if they fail to respond within the timeframe specified. HOC's system of removing applicant names from the wait list will not violate the rights of persons with disabilities. If an applicant claims that their failure to respond to a request for information or updates was caused by a disability, HOC will verify that there is in fact a disability, that the disability is what caused the failure to respond, and then provide a reasonable accommodation. An example of a reasonable accommodation would be to reinstate the applicant on the wait list based on the date and time of their original application.

## **Purging the Wait List**

HOC will update and purge its wait list as needed to ensure that the pool of applicants reasonably represents the interested families for whom HOC has current information, i.e. applicant's address, family composition, income category, and preference.



## Chapter 6

### FACTORS RELATED TO TOTAL TENANT PAYMENT AND FAMILY SHARE DETERMINATION

[24 CFR Part 5, Subparts E and F; 982.153, 982.551]

#### **INTRODUCTION**

HOC uses the methods as set forth in this Administrative Plan to verify and determine that family income at admission and at annual reexamination is correct. The accurate calculation of Annual Income and Adjusted Income ensures that families are not paying more or less money for rent than their obligation under the Regulations.

This Chapter defines the allowable expenses and deductions subtracted from Annual Income and how the presence or absence of household members may affect the Total Tenant Payment (TTP). Income and TTP are calculated in accordance with 24 CFR Part 5, Subparts E and F, and further instructions set forth in HUD Notices and Memoranda. The formula for the calculation of TTP is specific and not subject to interpretation. HOC's policies in this chapter address those areas which allow HOC discretion to define terms and to develop standards in order to assure consistent application of the various factors that relate to the determination of TTP.

#### **A. INCOME AND ALLOWANCES [24 CFR 5.609]**

Income: Includes all monetary amounts, which are received on behalf of the family, except any financial assistance received for mandatory education fees and charges (in addition to tuition). For purposes of calculating the Total Tenant Payment, HUD defines what is calculated and what is excluded in the federal regulations. In accordance with this definition, all income that is not specifically excluded in the regulations is counted.

Annual Income: is defined as the gross amount of income anticipated to be received by the family during the 12 months after certification or recertification. Gross income is the amount of income prior to any HUD allowable expenses or deductions, and does not include income that has been excluded by HUD. Annual income is used to determine whether or not applicants are within the applicable income limits. A family who actually works less than 12 months, as required by their employment, will have their income treated as though they worked 12 months.

Adjusted Income: is defined as the annual income minus any HUD allowable expenses and deductions.

HUD has five allowable deductions from Annual Income:

- 1. Dependent Allowance:** \$480 each for family members (other than the head or spouse) who are minors, and for family members who are 18 and older who are full-time students or who are disabled.

2. **Elderly/Disabled Allowance:** \$400 per family for families whose head or spouse is 62 or over or disabled.
3. **Allowable Medical Expenses:** Deducted for all family members of an eligible elderly/disabled family.
4. **Child Care Expenses:** Deducted for the care of children under 13 when child care is necessary to allow an adult member to work, attend school, or actively seek employment.
5. **Allowable Disability Assistance Expenses:** Deducted for attendant care or auxiliary apparatus for persons with disabilities if needed to enable the individual or an adult family member to work.

Allowable deductions from Annual Income are reviewed at annual reexamination.

### **Earned Income Disallowance/Disregard** [24 CFR 5.617]

The Earned Income Disregard (EID) is designed to promote self-sufficiency for families with disabilities in the housing Choice Voucher (HCV) program who meet the definition of a “qualified family.”

#### **Disallowance of increase in annual income**

- (1) *Initial 12-month exclusion.* During the 12-month period beginning on the date a member who is a person with disabilities of a qualified family is first employed or the family first experiences an increase in annual income attributable to employment, HOC must exclude from annual income of a qualified family any increase in income of the family member who is a person with disabilities as a result of employment over prior income of that family member.
- (2) *Second 12-month exclusion and phase-in.* Upon the expiration of the 12-month period defined in paragraph (1) of this section and for the subsequent 12-month period, HOC must exclude from annual income of a qualified family at least 50 percent of any increase in income of such family member as a result of employment over the family member's baseline income.
- (3) *Maximum two-year disallowance.* The disallowance of increased income of an individual family member who is a person with disabilities as provided in paragraph (1) or (2) of this section is limited to a lifetime 24-month period. The disallowance applies for a maximum of 12 months for disallowance under paragraph (1) of this section and a maximum of 12 months for disallowance under paragraph (2) of this section, during the 24-month period starting from the initial exclusion under paragraph (1) of this section. Previously, families were eligible to receive the EID benefit for no more than 24 months, but which could be spread across a 48-month time period to account for potential changes in the employment status of the family member whose original employment caused the

family to be eligible for EID. That is no longer the case. EID eligibility is now limited to a maximum of only 24 straight months.

## **B. MINIMUM RENT [24 CFR 5.630]**

### **Minimum Rent**

"Minimum rent" is \$50. Minimum rent refers to the TFC and includes the combined amount a family pays towards rent and/or utilities when it is applied.

### **Hardship Requests for an Exception to Minimum Rent**

HOC recognizes that in some circumstances even the minimum rent may create a financial hardship for families. HOC will review all relevant circumstances brought to its attention regarding financial hardship as it applies to the minimum rent. The following section states HOC's procedures and policies in regard to minimum rent and financial hardship as set forth by the Quality Housing and Work Responsibility Act of 1998. HUD has defined circumstances under which a hardship could be claimed.

### **Criteria for Hardship Exception**

In order for a family to qualify for a hardship exception the family's circumstances must fall under one of the following HUD hardship criteria:

The family has lost eligibility or is awaiting an eligibility determination for Federal, State, or local assistance;

The family would be evicted as a result of the imposition of the minimum rent requirement;

The income of the family has decreased because of changed circumstances, including:

Loss of employment

Death in the family

Other circumstances as determined by HOC or HUD

### **HOC Notification to Families of Right to Hardship Exception**

HOC will notify all families subject to minimum rents of their right to request a minimum rent hardship exception. "Subject to minimum rent" means the minimum rent was the greatest figure in the calculation of the greatest of 30 percent of monthly-adjusted income, 10 percent of monthly income, minimum rent, or welfare rent.

If the minimum rent is the greatest figure in the calculation of TTP, HOC staff will include a copy of the notice regarding hardship request provided to the family in the family's file.

HOC notification will advise families that hardship exception determinations are subject to HOC's review and hearing procedures.

HOC will review all family requests for exception from the minimum rent due to financial hardships.

All requests for minimum rent hardship exceptions are required to be in writing.

HOC will request documentation as proof of financial hardship.

HOC will use its standard verification procedures to verify circumstances that have resulted in financial hardship.

Requests for minimum rent exception must include a statement of the family hardship that qualifies the family for an exception.

### **Suspension of Minimum Rent**

HOC will grant the minimum rent exception to all families who request it, effective the first of the following month.

The minimum rent will be suspended until HOC determines whether the hardship is:

Covered by statute

Temporary or long term

"Suspension" means that HOC must not use the minimum rent calculation until HOC has made this decision.

During the minimum rent suspension period, the family will not be required to pay a minimum rent and the housing assistance payment will be increased accordingly.

If HOC determines that the minimum rent is not covered by statute, HOC will impose a minimum rent including payment for minimum rent from the time of suspension.

### **Temporary Hardship**

If HOC determines that the hardship is temporary, a minimum rent will not be imposed for a period of up to 90 days from the date of the family's request. At the end of the temporary suspension period, a minimum rent will be imposed retroactively to the time of suspension.

HOC will offer a repayment agreement to the family for any such rent not paid during the temporary hardship period. (See "Owner and Family Debts to HOC" in the chapter which discusses the Repayment Agreement Policy).

**Long-Term Duration Hardships** [24 CFR 5.616(c)(3)]

If HOC determines that there is a qualifying long-term financial hardship, HOC must exempt the family from the minimum rent requirements.

**Retroactive Determination**

HOC will reimburse the family for any minimum rent charges that took effect after October 21, 1998 that qualified for one of the mandatory exceptions.

If the family is owed a retroactive payment, HOC will offset the family's future rent contribution payments by the amount in which HOC owes the family.

**C. DEFINITION OF TEMPORARILY/PERMANENTLY ABSENT**

[24 CFR 982.54(d)(10), 982.551]

HOC must compute all applicable income of every family member who is on the lease, including those who are temporarily absent. In addition, HOC must count the income of the spouse or the head of the household, if that person is temporarily absent, even if that person is not on the lease.

"Temporarily absent" is defined as away from the unit for more than 30 days.

Income of persons permanently absent will not be counted. If the spouse is temporarily absent and in the military, all military pay and allowances (except hazardous duty pay when exposed to hostile fire and any other exceptions to military pay HUD may define) is counted as income.

It is the responsibility of the head of household to report changes in family composition. HOC will evaluate absences from the unit using this policy.

**Absence of Any Member**

Any member of the household is considered permanently absent if s/he is away from the unit for 90 consecutive days, except as otherwise provided in this Chapter.

**Absence due to Medical Reasons**

If any family member leaves the household to enter a facility such as hospital, nursing home, or rehabilitation center, HOC will seek advice from a reliable qualified source as to the likelihood and timing of their return. If the verification indicates that the family member will be permanently confined to a nursing home, the family member is considered permanently absent. If the verification indicates that the family member will return in less than 180 consecutive days, the family member is not considered permanently absent.

If the person who is determined to be permanently absent is the sole member of the household, assistance is Terminated in accordance with HOC's "Absence of Entire Family" policy.

### **Absence Due to Full-time Student Status**

Full time students who attend school away from the home are treated in the following manner:

Full time students who attend school away from home and live with the family during school recesses are considered temporarily absent from the household.

### **Absence due to Incarceration**

If the sole member is incarcerated for more than 90 consecutive days, s/he is considered permanently absent. Any member of the household, other than the sole member, is considered permanently absent if s/he is incarcerated for 180 consecutive days.

HOC will determine if the reason for incarceration is for drug-related or violent criminal activity. If it is, then HOC must terminate the family

### **Absence of Children due to Placement in Foster Care**

If the family includes a child or children temporarily absent from the home due to placement in foster care, HOC will determine from the appropriate agency when the child/children will be returned to the home.

If the time period will be greater than 12 months from the date of removal of the child/ren, the voucher size is reduced. If all children are removed from the home permanently, the voucher size is reduced in accordance with HOC's subsidy standards (see Chapter 5).

### **Absence of Entire Family**

These policy guidelines address situations when the family is absent from the unit, but has not moved out of the unit. In cases where the family has moved out of the unit, HOC will terminate assistance in accordance with appropriate termination procedures contained in this Administrative Plan.

Families are required both to notify HOC before they move out of a unit and to give HOC information about any family absence from the unit.

Families must notify HOC at least 30 days before leaving the unit, if they are going to be absent from the unit for more than 60 consecutive days.

If the entire family is absent from the assisted unit for more than 60 consecutive days, the unit is considered vacated, and the assistance is terminated. **HOC may continue to make HAP payments and not terminate the HAP contract if the family is absent more than 180 consecutive days due to extenuating circumstances. This temporary policy expires on June 30, 2021 in accordance with the waiver flexibility authorized in PIH Notice 2020-33.**

If it is determined that the family is absent from the unit, HOC will discontinue assistance payments.

HUD regulations require HOC to terminate assistance if the entire family is absent from the unit for a period of more than 180 consecutive days.

"Absence" means that no family member is residing in the unit.

In order to determine if the family is absent from the unit, HOC may:

- Write letters to the family at the unit

- Telephone the family at the unit

- Interview neighbors

- Verify if utilities are in service

- Check with the post office

A person with a disability may request an extension of time as an accommodation, provided that the extension does not go beyond the HUD-allowed 180 consecutive calendar days' limit.

If the absence which resulted in termination of assistance was due to a person's disability, and HOC can verify that the person was unable to notify HOC in accordance with the family's responsibilities, and if funding is available, HOC may reinstate the family as a reasonable accommodation, if requested by the family, so long as the period was within 180 consecutive days.

### **Caretaker for Children**

If neither parent remains in the household and the appropriate agency determines that another adult must be brought into the assisted unit to care for the children for an indefinite period, HOC will treat that adult as a visitor for the first 30 days.

If by the end of that period, court-awarded custody or legal guardianship is awarded to the caretaker, the voucher is transferred to the caretaker.

If the appropriate agency cannot confirm the guardianship status of the caretaker, HOC will review the status at six month intervals.

If custody or legal guardianship is not awarded by the court, but the action is in process, HOC will secure verification from social services staff or the attorney as to the status.

The caretaker is allowed to remain in the unit, as a visitor, until a determination of custody is made.

HOC will transfer the voucher to the caretaker, in the absence of a court order, if the caretaker has been in the unit for more than 180 days and it is reasonable to expect that custody will be granted.

When HOC approves an adult to reside in the unit as caretaker for the child/ren, their income is counted pending a final disposition. HOC will work with the appropriate service agencies and the landlord to provide a smooth transition in these cases.

If a member of the household is subject to a court order that restricts him/her from the home for more than 180 days, the person is considered permanently absent.

### **Visitors**

Any adult not included on the HUD 50058 who has been in the unit more than 30 consecutive days without HOC approval, or a total of 60 days in a 12-month period, is considered to be living in the unit as an unauthorized household member.

Absence of evidence of any other address is considered verification that the visitor is a member of the household.

Statements from neighbors and/or the landlord are considered in making the determination.

Use of the unit address as the visitor's current residence for any purpose that is not explicitly temporary is construed as permanent residence.

The burden of proof that the individual is a visitor rests on the family. In the absence of such proof, the individual is considered an unauthorized member of the household and HOC will terminate assistance since prior approval was not requested for the addition.

Minors and college students who were part of the family but who now live away from home during the school year and are no longer on the lease may visit for up to 60 days per year without being considered a member of the household.

In a joint custody arrangement, if the minor is in the household less than 180 days per year, the minor is considered to be an eligible visitor and not a family member.

### **Reporting Additions to Owner and HOC**

Reporting changes in household composition to HOC is both a HUD and an HOC requirement.

The family obligations require the family to request HOC approval to add any other family member as an occupant of the unit and to inform HOC of the birth, adoption, or court awarded custody of a child. The family must request prior approval of additional household members in writing.



If the family does not obtain prior written approval from HOC, any person the family has permitted to move in will be considered an unauthorized household member.

In the event that a visitor continues to reside in the unit after the maximum allowable time, the family must report it to HOC in writing within 10 days of the maximum allowable time.

Families are required to report any additions to the household in writing to HOC within 10 days of the move-in date.

An interim reexamination is conducted for any additions to the household.

In addition, the lease may require the family to obtain prior written approval from the owner when there are changes in family composition other than birth, adoption, or court awarded custody.

### **Reporting Absences to HOC**

Reporting changes in household composition is both a HUD and an HOC requirement.

If a family member leaves the household, the family must report this change to HOC, in writing, within 10 days of the change and certify as to whether the member is temporarily absent or permanently absent.

HOC will conduct an interim evaluation for changes that affect the TTP in accordance with the interim policy.

### **D. AVERAGING INCOME**

When Annual Income cannot be anticipated for a full 12 months, HOC may:

Average known sources of income that vary to compute an annual income, or

Annualize current income and conduct an interim reexamination if income changes.

If there are bonuses or overtime which the employer cannot anticipate for the next 12 months, bonuses and overtime received the previous year will be used.

If, by averaging, an estimate can be made for those families whose income fluctuates from month to month, this estimate will be used so as to reduce the number of interim adjustments.

The method used depends on the regularity, source and type of income.

### **E. MINIMUM INCOME**

There is no minimum income requirement. Families who report zero income are required to complete a written certification every 90 days.

Families that report zero income are required to provide information regarding their means of basic subsistence, such as food, utilities, transportation, etc.

If the family's expenses exceed their known income, HOC will make inquiry of the head of household as to the nature of the family's accessible resources.

**F. INCOME OF PERSON PERMANENTLY CONFINED TO NURSING HOME**  
[24 CFR 982.54(d)(10)]

If a family member is permanently confined to a hospital or nursing home and there is a family member left in the household, HOC calculates the income by using the following methodology, and uses the income figure that would result in a lower payment by the family:

Exclude the income of the person permanently confined to the nursing home and give the family no deductions for medical expenses of the confined family member.

OR

Include the income of the person permanently confined to the nursing home and give the family the medical deductions allowable on behalf of the person in the nursing home.

**G. REGULAR CONTRIBUTIONS AND GIFTS** [24 CFR 5.609]

Regular contributions and gifts received from persons outside the household are counted as income for calculation of the Total Tenant Payment (TTP).

Any contribution or gift received every 180 days, or more frequently, is considered a "regular" contribution or gift, unless the amount is less than \$500 per year. This includes rent and utility payments made on behalf of the family and other cash or non-cash contributions provided on a regular basis. It does not include casual contributions or sporadic gifts. (Please see the "Verification Procedures" chapter in this Administrative Plan for further information.)

If the family's expenses exceed its known income, HOC investigates the family regarding any contributions and/or gifts received.

**H. ALIMONY AND CHILD SUPPORT** [24 CFR 5.609]

Regular alimony and child support payments are counted as income for calculation of the TTP.

If the amount of child support or alimony received is less than the amount awarded by the court, HOC will use the amount awarded by the court; unless the family can verify that they are not receiving the full amount and verification of item(s) below are provided.

HOC accepts verification that the family is receiving an amount less than the amount awarded by the court if:

HOC receives verification from the agency responsible for enforcement or collection.

The family furnishes documentation of child support or alimony collection action filed through a child support enforcement/collection agency, or has filed an enforcement or collection action through an attorney.

It is the family's responsibility to supply a certified copy of the divorce decree.

### **I. LUMP-SUM RECEIPTS** [24 CFR 5.609]

Lump-sum additions to family assets, such as inheritances, insurance payments (including payments under health, accident insurance, and worker's compensation), capital gains, and settlement for personal or property losses, are not included in income but may be included in assets.

Lump-sum payments caused by delays in processing periodic payments such as unemployment or welfare assistance are counted as income. Lump sum payments from Social Security or SSI are excluded from income, but any amount remaining is considered an asset. Deferred periodic payments which have accumulated due to a dispute are treated the same as periodic payments which are deferred due to delays in processing.

In order to determine the amount of retroactive tenant rent that the family owes as a result of the lump sum receipt:

HOC uses a calculation method that calculates retroactively or prospectively, depending on the circumstances.

#### **Prospective Calculation Methodology**

If the payment is reported on a timely basis, the calculation is done prospectively and will result in an interim adjustment calculated as follows:

The lump sum is added in the same way for any interim adjustments that occur prior to the next annual recertification.

If amortizing the payment over one year will cause the family to pay more than 50 percent of the family's adjusted income (before the lump sum was added) for TTP, HOC and the family may enter into a Repayment Agreement, with the approval of the Director of the Housing Resources Division, for the balance of the amount over the 50 percent calculation. The beginning date for this Repayment Agreement will start at the next annual reexamination of income.

#### **Retroactive Calculation Methodology**

HOC goes back to the date of receipt of the lump-sum payment, or to the date of admission, whichever is closer.

At HOC's option, HOC may enter into a Repayment Agreement with the family.

The amount owed by the family is a collectible debt even if the family becomes unassisted.

**Attorney Fees**

The family's attorney fees are eligible for deduction from the lump-sum payments when computing annual income if the attorney's efforts have recovered a lump-sum compensation, and the recovery paid to the family does not include an additional amount in full satisfaction of the attorney's fees.

**J. CONTRIBUTIONS TO RETIREMENT FUNDS - ASSETS** [24 CFR 5.603(d)]

Contributions to company retirement/ pension funds are handled as follows:

While an individual is employed, HOC counts contributions to company retirement/ pension funds as assets only for amounts which the family can withdraw without retiring or terminating their employment.

After retirement or termination of employment, HOC counts any amount the employee elects to receive as a lump sum from a company retirement/ pension fund.

**K. ASSETS**

Income from assets is calculated based on the current balance of the account.

**L. ASSETS DISPOSED OF FOR LESS THAN FAIR MARKET VALUE**  
[24 CFR 5.603(d)(3)]

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HOC must count assets disposed of for less than fair market value during the two years preceding certification or reexamination. HOC counts the difference between the market value and the actual payment received in calculating total assets.

Assets disposed of as a result of foreclosure or bankruptcy are not considered to be assets disposed of for less than fair market value. Assets disposed of as a result of a divorce or separation are not considered to be assets disposed of for less than fair market value.

HOC's minimum threshold for counting assets disposed of for less than Fair Market value is \$1,000. If the total value of assets disposed of within a one-year period is less than \$1,000, they are not considered an asset.

**M. CHILD CARE EXPENSES** [24 CFR 5.603]

Child-care expenses for children under 13 are eligible for deduction from annual income if they enable an adult to work or attend school full time, or to actively seek employment.

In the case of a child attending a private school, only before/ after-hours care are permitted for counting as child-care expenses.

Permissibility of deductions for child-care expenses is based on the following guidelines:

**Child care to work:** The maximum child care expense allowed must be less than the amount earned by the person enabled to work. The "person enabled to work" is the adult member of the household who earns the least amount of income from working.

**Child care for school:** The number of hours claimed for child care cannot exceed the number of hours the family member is attending school, including reasonable travel time to and from school.

**N. MEDICAL EXPENSES** [24 CFR 5.609(a)(2), 5.603]

When it is unclear in the HUD rules as to whether or not to allow an item as a medical expense, Internal Revenue Service (IRS) Publication 502 is used as a guide.

Nonprescription medicines are counted toward medical expenses for families who qualify, if the family furnishes legible receipts.

Acupressure, acupuncture, and related herbal medicines, as well as chiropractic services are also considered allowable medical expenses.

**O. PRORATION OF ASSISTANCE FOR "MIXED" FAMILIES** [24 CFR 5.520]

**Applicability**

Pro-ration of assistance is offered to any "mixed" applicant or participant family. A "mixed" family is one that includes at least one U.S. citizen or eligible immigrant and any number of ineligible family members.

**Prorated Assistance Calculation**

Prorated assistance is calculated by determining the amount of assistance payable if all family members were eligible, and multiplying by the percent of the family members who actually are eligible. Calculations for each housing program are performed on the HUD 50058 form.

**P. REDUCTION IN BENEFITS**

Please see the chapter of this Administrative Plan on recertifications for a description of how to handle income changes resulting from welfare program requirements.

## **Q. UTILITY ALLOWANCE AND UTILITY REIMBURSEMENT PAYMENTS**

[24 CFR 982.153, 982.517]

The same utility allowance schedule is used for all tenant-based programs.

The utility allowance is intended to cover the cost of utilities not included in the rent. The allowance is based on the typical cost of utilities and services paid by energy-conservative households that occupy housing of similar size and type in the same locality. Allowances are not based on an individual family's actual energy consumption.

HOC's utility allowance schedule, and the utility allowance for an individual family, must include the utilities and services that are necessary in the locality to provide housing that complies with the housing quality standards.

HOC does not provide any allowance for non-essential utility costs, such as costs of cable or satellite television.

HOC must classify utilities in the utility allowance schedule according to the following general categories: space heating, air conditioning, cooking, water heating, water, sewer, trash collection, other electric, refrigerator (for tenant supplied refrigerator), range (cost of tenant-supplied range), and other specified services.

An allowance for tenant-paid air conditioning is provided in those cases where the majority of housing units in the market have central air conditioning or are wired for tenant installed air conditioners [24 CFR 982.517].

HOC reviews the utility allowance schedule annually. If the review finds a utility rate changed by 10 percent or more since the last revision of the utility allowance schedule, the schedule is revised to reflect the new rate. Revised utility allowances are applied to a participant family's rent calculation at their next reexamination.

The utility allowance is based on the lesser of the size of dwelling unit actually leased by the family or the voucher size issued, as determined under HOC's subsidy standards (please see the Subsidy Standards chapter in this Administrative Plan for more information). In cases where HOC provided a reasonable accommodation to a family that includes a person with disabilities, HOC will use the appropriate utility allowance for the size of the dwelling unit actually leased by the family.

Where the calculation on the HUD 50058 results in a utility reimbursement payment due to the family, HOC will provide a Utility Reimbursement Payment to the family each month. The check is made out directly to the tenant.

## Chapter 7

### VERIFICATION PROCEDURES

[24 CFR Part 5, Subparts B, D, E and F; 982.108]

#### **INTRODUCTION**

HUD regulations require that the factors of eligibility and Total Tenant Payment/Family Share be verified by the PHA. PHA staff will obtain written verification from independent sources whenever possible, or will document in tenant files why third party verification was impossible to obtain.

Applicants and program participants must provide true and complete information to the PHA whenever information is requested. The PHA's verification requirements are designed to maintain program integrity. This Chapter explains the PHA's procedures and standards for verification of preferences, income, assets, allowable deductions, family status, and changes in family composition. The PHA will obtain proper authorization from the family before requesting information from independent sources.

#### **A. METHODS OF VERIFICATION AND TIME ALLOWED** [24 CFR 982.516]

The PHA will verify information through the five methods of verification acceptable to HUD in the following order:

1. Upfront Income Verification through HUD's Enterprise Income Verification system, see HOC's EIV policy
2. Third-Party Written Verification
3. Third-Party Oral Verification
4. Review of Documents
5. Certification/Self-Declaration

HOC may forgo third-party income verification requirements, including the use of EIV and consider self-certification, the highest form of income verification until June 30, 2021. This temporary verification method is in accordance with the waiver flexibility authorized in PIH Notice 2020-33.

The PHA will verify information through a secondary review through third party credit reports.

The PHA will allow 14 days for return of third-party verifications and 14 days to obtain other types of verifications before going to the next method. The PHA will document the file as to why third party written verification was not used.

For applicants, verifications may not be more than 60 days old at the time of voucher issuance. For participants, they are valid for 60 days from date of receipt.

#### **Upfront Income Verification (W-UIV)**

The verification of income, before or during a family re-examination, through an independent source that systemically and uniformly maintains income information in a computerized form for a large number of individuals.

The UIV data is used to validate client reported income and supplement client provided documents. When the client disputes the UIV data, the PHA must request written third party verification.

Acceptable Verification:

UIV plus current client provided documents or

UIV plus current client provided documents plus written third-party verification

Tenant-provided documents should be dated within the last 120 days of the reexamination, pay stubs should be current and consecutive.

The PHA will use state or federal records of child support payments to document and calculate income

Projecting Annual Income through UIV:

When UIV data is not substantially different than client-reported income:

If UIV data is less than client reported income, use client provided documents to calculate anticipated annual income.

If UIV data is greater than client reported income, use UIV data to calculate anticipated annual income, unless client can provide the PHA with acceptable documentation to verify a change in circumstances.

When UIV data is substantially different than client reported income:

The PHA must request written third-party verification from the discrepant income source.

**Third-Party Written Verification**

Third-party verification is used to verify information directly with the source. Third-party written verification forms will be sent and returned via first class mail. The family will be required to sign an authorization for the information source to release the specified information.

Verifications received electronically directly from the source are considered third party written verifications.

**Third-Party Oral Verification**

Oral third-party verification will be used when written third party verification is delayed or not possible. When third-party oral verification is used, staff will be required to complete a Certification of Document Viewed or Person Contacted form, noting with whom they spoke, the



date of the conversation, and the facts provided. If oral third party verification is not available, the PHA will compare the information to any documents provided by the Family. If provided by telephone, the PHA must originate the call.

### **Review of Documents**

In the event that third-party written or oral verification is unavailable, or the information has not been verified by the third party within two weeks, the PHA will annotate the file accordingly and utilize documents provided by the family as the primary source if the documents provide complete information.

All such documents, excluding government checks, will be photocopied and retained in the applicant file. In cases where documents are viewed which cannot be photocopied, staff viewing the document(s) will complete a Certification of Document Viewed or Person Contacted form or document.

The PHA will accept the following documents from the family provided that the document is such that tampering would be easily noted:

- Printed wage stubs
- Computer print-outs from the employer
- Signed letters (provided that the information is confirmed by phone)
- Other documents noted in this Chapter as acceptable verification

The PHA will accept photocopies after review of the original documents.

If third-party verification is received after documents have been accepted as provisional verification, and there is a discrepancy, the PHA will utilize the third party verification.

The PHA will not delay the processing of an application beyond 14 days because a third party information provider does not return the verification in a timely manner.

### **Self-Certification/Self-Declaration**

When verification cannot be made by third-party verification or review of documents, families will be required to complete a self-certification.

#### **Subsection - Secondary Review/Credit Checks**

The Housing Authority uses credit reports obtained from a third party source as a secondary review of income verifications for all adult household members (non student persons 18 years of age and older) who reside in the assisted household and claim zero income. The secondary review includes a comparison between the information contained in the credit report, for each adult household member and the information provided by the family to the Housing Authority for eligibility purposes (Personal Declaration). Specifically, the Housing Authority reviews the credit report to verify:

**Employment:** If the credit report reveals employment during the subsidized period that has not been disclosed to the Housing Authority, the family will be required to provide documentation that the employment did not occur or provide information regarding the amount of earnings received during the employment period. If a family contends that the employment was made up for the purposes of obtaining credit or was erroneously placed on the credit report, the family must supply a letter from the employers listed confirming such information. If the family failed to disclose employment for a period longer than six months, the Housing Authority may purpose termination of the family's housing assistance and seek repayment of any overpayment. If the family failed to disclose employment for less than six months, the family will be required to attend a counseling interview and re-sign all program documents reinforcing the family's obligations. The family will also be required to repay any housing subsidy overpayment. A recurrence of this violation could result in termination from the Housing Choice Voucher and Section 8 programs.

**Assets:** The credit report information will be used to verify assets, particularly large items such as real property. If the credit report reveals that the family owns property, the family will be required to provide the appropriate documentation regarding the property. If all documentation confirms that the family or any household member owns real estate property that was purposely concealed, the Housing Authority will propose termination of assistance and seek repayment of any overpayment amount.

**Aliases:** A credit report can provide information on other names that have been used for the purposes of obtaining credit. Common reasons for use of other names include a recent marriage or a divorce. If an alias has not been disclosed to the Housing Authority, the family will be asked to provide additional evidence of the legal identity of all adult family members.

**Current and previous addresses:** A credit report can provide a history of where the family has lived. This is particularly important because the Housing Authority provides a residency preference. If the family has provided one address to the Housing Authority and the credit report indicates a different address, the family will be asked to provide additional proof of residency. This may include a history of utility bills, bank statements, and school enrollment records for children, credit card statements or other relevant documentation. Failure to provide adequate proof could result in denial of the residency preference.

**Credit card and loan payments:** A credit report will usually include a list of the family's financial obligations. Examples of the items that may show up include car loans, mortgage loans, student loans and credit cards payments. The Housing Authority will review this information to confirm the income and asset information provided by the family. If the family's current financial obligations (total amount of current monthly payments) exceed the amount of income reported by the family, the Housing Authority will ask the family to disclose how they are currently meeting their financial obligations. Accounts that have been charged off or are significantly delinquent are not included in this calculation. Failure to provide adequate proof of income could result in denial of participation in the Housing Choice Voucher and Section 8 programs.

**Multiple Social Security Numbers:** A credit report may list multiple Social Security numbers if an adult family member has used different Social Security numbers to obtain credit. If the credit report information does not match the information provided by an adult family member, the family member or head of household will be required to obtain written confirmation of the Social Security number that was issued to him/her from the Social Security Administration.

A family will not be issued a voucher until all discrepancies between the information provided by the applicant family and the information contained in the credit report have been cleared by the applicant family and approved by the Housing Authority. When discrepancies are found, the family will be contacted by the Housing Authority. In most cases, the family will be allowed a maximum of ten business days to provide the additional information. On a case-by-case basis, as a reasonable accommodation, the family may be granted additional time. If additional time is granted, the family receives written notification of the new deadline. No second or additional extension will be granted. Failure to provide the required information to the Housing Authority could result in denial of participation in the Housing Choice Voucher and Section 8 Programs. When the credit report reveals multiple discrepancies which require interview appointments, the Housing Authority will schedule up to two interview appointments. An additional appointment may be scheduled as a reasonable accommodation. Failure to appear at the interview session could result in denial of participation in the Housing Choice Voucher and Section 8 Programs.

**B. RELEASE OF INFORMATION** [24 CFR 5.230]

Adult family members will be required to sign the HUD 9886 Release of Information/Privacy Act form.

In addition, family members will be required to sign specific authorization forms when information is needed that is not covered by the HUD form 9886, Authorization for Release of Information/Privacy Act Notice.

Each member requested to consent to the release of specific information will be provided with a copy of the appropriate forms for their review and signature.

Family refusal to cooperate with the HUD prescribed verification system will result in denial of admission or termination of assistance because it is a family obligation to supply any information and to sign consent forms requested by the PHA or HUD.

**C. COMPUTER MATCHING**

Where allowed by HUD and/or other State or local agencies, computer matching will be done.

The PHA will utilize the HUD established Enterprise Income Verification (EIV)/Upfront Income Verification (UIV) tool for obtaining Social Security benefits, Supplemental Security Income, benefit history and tenant income discrepancy reports from the Social Security Administration (Refer to EIV policy).

A. INITIAL LEASE UP [24 CFR 5.233]

For each New Admission (form HUD-50058 action type 1) Income Report

- . PHAs must review the Income Report to confirm/validate family-reported income within 90 days of the admission date.
- . Any income discrepancies must be resolved with the family within 30 days of the Income Report date

For each Historical Adjustment (form HUD-50058 action type 14) Income Report

- . PHAs must review the Income Report to confirm/validate family-reported income within 90 days of the PIC submission date
- . Any income discrepancies must be resolved with the family within 30 days of the Income Report date

When computer matching results in a discrepancy with information in the PHA records, the PHA will follow up with the family and verification sources to resolve this discrepancy. If the family has unreported or underreported income, the PHA will follow the procedures in the Program Integrity Addendum of the Administrative Plan.

**D. ITEMS TO BE VERIFIED** [24 CFR 982.516]

All income not specifically excluded by the regulations.

Full-time student status including High School students who are 18 or over.

Current assets including assets disposed of for less than fair market value in preceding two years.

Child-care expense where it allows an adult family member to be employed or to further his/her education.

Total medical expenses of all family members in households whose head or spouse is elderly or disabled.

Disability assistance expenses to include only those costs associated with attendant care or auxiliary apparatus for a disabled member of the family, which allow an adult family member to be employed.

Disability for determination of preferences, allowances or deductions.

U.S. citizenship/eligible immigrant status.

Social Security Numbers for all family members over 6 years of age or older who have been issued a social security number.

"Preference" status.

Familial/Marital status when needed for head or spouse definition.

Verification of Reduction in Benefits for Noncompliance:

The PHA will obtain written verification from the welfare agency stating that the family's benefits have been reduced for fraud or noncompliance before denying the family's request for rent reduction.

**E. VERIFICATION OF INCOME** [24 CFR 982.516]

This section defines the methods the PHA will use to verify various types of income.

**Employment Income**

Verification forms request the employer to specify the:

Dates of employment

Amount and frequency of pay

Date of the last pay increase

Likelihood of change of employment status and effective date of any known salary increase during the next 12 months

Year to date earnings

Estimated income from overtime, tips, bonus pay expected during next 12

months Acceptable methods of verification include, in this order:

1. Employment verification form completed by the employer.
2. Four current consecutive pay stubs or earning statements, which indicate the employee's gross pay, frequency of pay or year to date earnings.
3. W-2 forms plus income tax return forms.
4. Self-certification or income tax returns signed by the family may be used for verifying self-employment income, or income from tips and other gratuities.

Applicants and program participants may be requested to sign an authorization for release of information from the Internal Revenue Service for further verification of income.

In cases where there are questions about the validity of information provided by the family, the PHA will require the most recent federal income tax statements.

Where doubt regarding income exists, a referral to IRS for confirmation will be made on a case-by-case basis.

### **Social Security, Pensions, Supplementary Security Income (SSI), Disability Income**

Acceptable methods of verification include, in this order:

1. Utilize the HUD established Enterprise Income Verification (EIV)/Upfront Income Verification (UIV) tool for benefits, benefit history and tenant income discrepancy reports from the Social Security Administration (Refer to EIV policy).
2. Benefit verification form completed by agency providing the benefits.
3. Award or benefit notification letters prepared and signed by the providing agency.
4. Computer report electronically obtained or in hard copy.

### **Unemployment Compensation**

Acceptable methods of verification include, in this order:

1. Utilize the HUD established Enterprise Income Verification (EIV)/Upfront Income Verification (UIV) tool for benefits and benefit history reports from the Unemployment Compensation agency.
2. Verification form completed by the unemployment compensation agency.
3. Computer report electronically obtained or in hard copy, from unemployment office stating payment dates and amounts.
4. Payment stubs.

### **Welfare Payments or General Assistance**

Acceptable methods of verification include, in this order:

1. PHA verification form completed by payment provider.
2. Written statement from payment provider indicating the amount of grant/payment, start date of payments, and anticipated changes in payment in the next 12 months.

3. Computer-generated Notice of Action.
4. Computer-generated list of recipients from Welfare Department.

### **Alimony or Child Support Payments**

Acceptable methods of verification include, in this order:

1. Copy of a separation or settlement agreement or a divorce decree stating amounts and types of support and payment schedules.
2. State or federal records of child support payments.
3. A notarized statement or affidavit signed by the person providing the support. This document must include amount of support, payor name, address, and phone number
4. Copy of 3 latest check and/or payment stubs from Child Support Enforcement. For verbal third party the PHA must record the date, amount, and number of the check.
5. Family's self-certification of amount received and of the likelihood of support payments being received in the future, or that support payments are not being received.

If payments are irregular, the family must provide:

A copy of the separation or settlement agreement, or a divorce decree stating the amount and type of support and payment schedules.

A statement from the agency responsible for enforcing payments to show that the family has filed for enforcement.

A notarized affidavit from the family indicating the amount(s) received.

A welfare notice of action showing amounts received by the welfare agency for child support.

A written statement from an attorney certifying that a collection or enforcement action has been filed.

### **Net Income from a Business**

In order to verify the net income from a business, the PHA will view IRS and financial documents from prior years and use this information to anticipate the income for the next 12 months.

Acceptable methods of verification include:

1. IRS Form 1040, including:

Schedule C (Small Business)

Schedule E (Rental Property Income)

Schedule F (Farm Income)

2. If accelerated depreciation was used on the tax return or financial statement, an accountant's calculation of depreciation expense computed using straight-line depreciation rules.
3. Audited or un-audited financial statement(s) of the business.
4. Credit report or loan application.
5. Documents such as manifests, appointment books, cashbooks, bank statements, and receipts will be used as a guide for the prior 180 days (or lesser period if not in business for 90 days) to project income for the next 12 months. The family will be advised to maintain these documents in the future if they are not available.
6. Family's self-certification as to net income realized from the business during previous years.

### **Child Care Business**

If an applicant/participant is operating a licensed day care business, income will be verified as with any other business.

If the applicant/participant is operating a "cash and carry" operation (which may or may not be licensed), the PHA will require that the applicant/participant complete a form for each customer which indicates: name of person(s) whose child (children) is/are being cared for, phone number, number of hours child is being cared for, method of payment (check/cash), amount paid, and signature of person.

If the family has filed a tax return, the family will be required to provide it.

The PHA will conduct interim reevaluations every year and require the participant to provide a log with the information about customers and income.

If childcare services were terminated, third-party verification will be sent to the parent whose child was cared for.



## **Recurring Gifts**

Acceptable methods of verification include, in this order:

- A notarized statement or affidavit signed by the person providing the assistance giving the purpose, date and value of gifts. This document should include the payor name, address and phone number.
- A self-certification provided by the family that contains the following information: The person who provides the gift, the value of the gifts, the dates of the gifts and the purpose of the gifts.

## **Zero Income Status**

Families claiming to have no income will be required to execute verification forms to determine that forms of income such as unemployment benefits, TANF, SSI, etc. are not being received by the household.

The PHA will request information from the State Employment Development Department.

The PHA will run a credit report if information is received that indicates the family has an unreported income source.

## **Full-time Student Status**

Only the first \$480 of the earned income of full time students, other than head, co-head, or spouse, will be counted towards family income.

Financial aid, scholarships and grants received by full time students is not counted towards family income.

Verification of full time student status includes:

Written verification from the registrar's office or other school official; or school records which show a sufficient number of credits to be considered a full-time student by the educational institution attended.

School records, such as an official report card, indicating enrollment for sufficient number of credits to be considered a full-time student by the educational institution.

## **F. INCOME FROM ASSETS** [24 CFR 982.516]

\*VERIFICATION OF ASSESTS

### Asset Accounts with Interest Income and Dividends with current balance exceeding \$1,000

Acceptable methods of verification include, in this order:

1. Verification forms from a financial institution or broker.
2. Passbook, account statements, certificate of deposit, bonds, or financial statements completed by a financial institution or broker including current interest rates and dividends.
3. Broker's statements showing value of stocks or bonds and the earnings credited the family. Earnings can be obtained by oral broker's verification or current newspaper quotations.
4. IRS Form 1099 from the financial institution provided that the PHA must adjust the information to project earnings expected for the next 12 months.

### Interest Income from Mortgages or Similar Arrangements

Acceptable methods of verification include, in this order:

1. Amortization schedule showing interest for the 12 months following the effective date of the certification or recertification.
2. A letter from an accountant, attorney, real estate broker, the buyer, or financial institution stating interest due for the next 12 months. (A copy of the check paid by the buyer to the family is not sufficient unless of a breakdown of interest is present.

### Net Rental Income from Property Owned by Family

Acceptable methods of verification include, in this order:

1. IRS Form 1040 with Schedule E (Rental Income)
2. A copy of latest rent receipts, leases, or other documentation of rent amounts.
3. Documentation of allowable operating expenses of the property: tax statements, insurance invoices, bills for reasonable maintenance and utilities, and bank statements or amortization schedules showing monthly interest expense.
4. Lessee's written statement verifying rent payments to the family and family's self-certification as to the net income realized.

### Verification for assets to determine the current cash value

(the net amount the family would receive if the assets were converted to cash).

Quotes from a stock broker or realty agent as to the net amount family would receive if they liquidated securities or real estate.

Real estate tax statements if the approximate current cash value can be deduced from the assessment.

Financial statements from business assets

Copies of closing documents showing the selling price and the distribution of the sales proceeds.

Appraisals of personal property held as an investment.

Family's self certification describing assets or cash held at the family's home or in a safe deposit boxes.

Assets Disposed of for Less than Fair Market Value (FMV) During the Two Years Preceding the Effective Date of Certification or Recertification

For all Certifications and Recertifications, the PHA will obtain the Family's certification as to whether any member has disposed of assets for less than fair market value during the two years preceding the effective date of the certification or recertification.

If the family certifies that they have disposed of assets for less than fair market value, verification if required that shows: (a) all assets disposed of for less than FMV, (b) the date they were disposed of, (c) the amount the family received, and (d) the market value of the assets at the time of disposition. Third party verification will be obtained whenever possible.

## **H. VERIFICATION OF ALLOWABLE DECOCTIONS FROM INCOME**

[24 CFR 982.516]

### **Child Care Expenses**

Written verification from the person who receives the payments is required. If the child care provider is an individual, s/he must provide a statement of the amount they are charging the family for their services. Additionally, the family must provide two months of cancelled checks or cancelled cashier money orders verifying the child care costs.

Verifications must specify the child care provider's name, address, telephone number, Social Security Number, the names of the children cared for, the number of hours the child care occurs, the rate of pay, and the typical yearly amount paid, including school and vacation periods.

Family's certification as to whether any of those payments have been or will be paid or reimbursed by outside sources.

## **Medical Expenses**

Families, who claim medical expenses will be required to submit a certification as to whether or not any expense payments have been, or will be, reimbursed by an outside source. All expense claims will be verified by one or more of the methods listed below:

Written verification by a doctor, hospital or clinic personnel, dentist, pharmacist, of (a) the anticipated medical costs to be incurred by the family and regular payments due on medical bills; and (b) extent to which those expenses will be reimbursed by insurance or a government agency.

Written confirmation by the insurance company or employer of health insurance premiums to be paid by the family.

Written confirmation from the Social Security Administration of Medicare premiums to be paid by the family over the next 12 months. A computer printout will be accepted.

For attendant care:

A reliable, knowledgeable professional's certification that the assistance of an attendant is necessary as a medical expense and a projection of the number of hours the care is needed for calculation purposes.

Attendant's written confirmation of hours of care provided and amount and frequency of payments received from the family or agency (or copies of canceled checks the family used to make those payments) or stubs from the agency providing the services.

Receipts, canceled checks, or pay stubs that verify medical costs and insurance expenses likely to be incurred in the next 12 months.

Copies of payment agreements or most recent invoice that verify payments made on outstanding medical bills that will continue over all or part of the next 12 months.

Receipts or other record of medical expenses incurred during the past 12 months that can be used to anticipate future medical expenses, which includes regular visits to doctors or dentists, for "general medical expenses". For non-prescription drugs verification is needed from a medical professional stating that these drugs are prescribed is also needed along with receipts. One time, nonrecurring expenses from the previous year will not be included.

The PHA will use mileage at the IRS rate, or cab, bus fare, or other public transportation cost for verification of the cost of transportation directly related to medical treatment.

## **Assistance to Persons with Disabilities** [24 CFR

5.611(c)] In All Cases:

Written certification from a reliable, knowledgeable professional that the person with disabilities requires the services of an attendant and/or the use of auxiliary apparatus to permit him/her to be employed or to function sufficiently independently to enable another family member to be employed.

Family's certification as to whether they receive reimbursement for any of the expenses of disability assistance and the amount of any reimbursement received.

Attendant Care:

Attendant's written certification of amount received from the family, frequency of receipt, and hours of care provided.

Certification of family and attendant and/or copies of canceled checks family used to make payments.

Auxiliary Apparatus:

Receipts for purchases or proof of monthly payments and maintenance expenses for auxiliary apparatus.

In the case where the person with disabilities is employed, a statement from the employer that the auxiliary apparatus is necessary for employment.

## **I. VERIFYING NON-FINANCIAL FACTORS** [24 CFR 982.153(b)(15)]

### **Verification of Legal Identity**

In order to prevent program abuse, the PHA will require applicants to furnish verification of legal identity for all family members.

The documents listed below will be considered acceptable verification of legal identity for adults. If a document submitted by a family is illegible or otherwise questionable, more than one of these documents may be required.

- Certificate of Birth, naturalization papers
- Church issued baptismal certificate
- Current, valid Driver's license
- U.S. military discharge (DD 214)

- U.S. passport
- Department of Motor Vehicles Identification Card
- Hospital records

Documents considered acceptable for the verification of legal identity for minors may be one or more of the following:

- Certificate of Birth
- Adoption papers
- Custody agreement
- Health and Human Services ID
- School records

### **Verification of Marital Status**

Verification of divorce status will be a certified copy of the divorce decree, signed by a Court Officer.

Verification of a separation may be a copy of court-ordered maintenance or other records.

Verification of marriage status is a marriage certificate.

### **Familial Relationships** (pages 7-16 and 7-17)

Certification will normally be considered sufficient verification of family relationships. In cases where reasonable doubt exists, the family may be asked to provide verification.

The following verifications will always be required if applicable:

- Verification of relationship:
  - Official identification showing names
  - Birth Certificates
  - Baptismal certificates

- Verification of guardianship is:
  - Court-ordered assignment
  - Verification from social services agency

### **Verification of Permanent Absence of Family Member**

If an adult member who was formerly a member of the household is reported permanently absent by the family, the PHA will consider any of the following as verification:

Husband or wife institutes divorce action.

Husband or wife institutes legal separation.

Order of protection/restraining order obtained by one family member against another.

Proof of another home address, such as utility bills, canceled checks for rent, driver's license, or lease or rental agreement, if available.

Statements from other agencies such as social services or a written statement from the landlord or manager that the adult family member is no longer living at that location.

If the adult family member is incarcerated, a document from the Court or correctional facility should be obtained stating how long they will be incarcerated.

### **Verification of Change in Family Composition**

The PHA may verify changes in family composition (either reported or unreported) through letters, telephone calls, utility records, inspections, landlords, credit data, school, employment, or DMV records, and other sources. In cases of domestic violence, stalking, or dating violence, HOC will accept a final order of protection, peace order, or similar court order to remove a household member.

If the family is unable to obtain the above documentation, HOC will accept documentation from the U.S. Postal Service that indicates that the removed household member does not receive mail at the program unit address and a notarized statement from the head of household, the former member or both.

### **Verification of Disability**

Verification of disability must be receipt of SSI or SSA disability payments under Section 223 of the Social Security Act or 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001(7)) or for those who do not receive disability benefits the disability can be verified by appropriate diagnostician such as physician, psychiatrist, psychologist, therapist, rehab specialist, or licensed social worker, using the HUD language as the verification format.

**Verification of Citizenship/Eligible Immigrant Status** [24 CFR 5.508, 5.510, 5.512, 5.514]

To be eligible for assistance, individuals must be U.S. citizens or eligible immigrants. Individuals who are neither may elect not to contest their status. Eligible immigrants must fall into one of the categories specified by the regulations and must have their status verified by Immigration and Naturalization Service (INS). Family members must declare their status once. Assistance cannot be delayed, denied, or terminated while verification of status is pending except that assistance to applicants may be delayed while the PHA hearing is pending.

Citizens or Nationals of the United States are required to sign a declaration under penalty of perjury.

The PHA will require citizens to provide documentation of citizenship. Acceptable documentation will include at least one of the following original documents:

United States birth certificate

United States passport

Resident alien/registration card

Other appropriate documentation as determined by the PHA

Eligible Immigrants who were Participants and 62 or over on June 19, 1995, are required to sign a declaration of eligible immigration status and provide proof of age.

Non-citizens with eligible immigration status must sign a declaration of status and verification consent form and provide their original immigration documents which are copied front and back and returned to the family. The PHA verifies the status through the INS SAVE system. If this primary verification fails to verify status, the PHA must request within 10 days that the INS conduct a manual search.

Ineligible family members who do not claim to be citizens or eligible immigrants must be listed on a statement of ineligible family members signed by the head of household or spouse.

Non-citizen students on student visas are ineligible members even though they are in the country lawfully. They must provide their student visa but their status will not be verified and they do not sign a declaration but are listed on the statement of ineligible members.

Failure to Provide: If an applicant or participant family member fails to sign required declarations and consent forms or provide documents as required, they must be listed as an ineligible member. If the entire family fails to provide and sign as required, the family may be denied or terminated for failure to provide required information.



## **Time of Verification**

For applicants, verification of U.S. citizenship/eligible immigrant status occurs at the same time as verification of other factors of eligibility for final eligibility determination.

The PHA will not provide assistance to any family prior to the affirmative establishment and verification of the eligibility of the individual or at least one member of the family.

The PHA will verify the U.S. citizenship/eligible immigration status of all participants no later than the date of the family's first annual reexamination following the enactment of the Quality Housing and Work Responsibility Act of 1998.

For family members added after other members have been verified, the verification occurs at the first recertification after the new member moves in.

Once verification has been completed for any covered program, it need not be repeated except that, in the case of port-in families, if the initial PHA does not supply the documents, the PHA must conduct the determination.

## **Extensions of Time to Provide Documents**

The PHA will grant an extension of 30 days for families to submit evidence of eligible immigrant status.

## **Acceptable Documents of Eligible Immigration**

The regulations stipulate that only the following documents are acceptable unless changes are published in the Federal Register:

Resident Alien Card (I-551)

Alien Registration Receipt Card (I-151)

Arrival-Departure Record (I-94)

Temporary Resident Card (I-688)

Employment Authorization Card (I-688B)

Receipt issued by the INS for issuance of replacement of any of the above documents that shows individual's entitlement has been verified

A birth certificate is not acceptable verification of status. All documents in connection with U.S. citizenship/eligible immigrant status must be kept 5 years.

The PHA will verify the eligibility of a family member at any time such eligibility is in question, without regard to the position of the family on the waiting list.

If the PHA determines that a family member has knowingly permitted another individual who is not eligible for assistance to reside permanently in the family's unit, the family's assistance will be terminated for 36 months, unless the ineligible individual has already been considered in prorating the family's assistance.

### **Verification of Social Security Numbers** [24 CFR 5.216]

Social security numbers must be provided as a condition of eligibility for all family members if they have been issued a number, except any member who is older than 62 as of Jan 31, 2010 and receiving assistance as of that date.

At the time any change in family composition is reported to HOC, each new family member will be required to produce a Social Security card or original document issued by a federal or state government agency that provides the Social Security Number of the individual along with other identifying information. HOC will accept HUD prescribed documentation of this information.

If an applicant or participant is able to disclose the Social Security Number but cannot meet the documentation requirements, the applicant or participant cannot become a participant or continue as a participant until the applicant or participant can provide the complete and accurate Social Security Number assigned to each member of the household.

HOC permits a 90-day period during which an applicant family may become a program participant, even if the family lacks the documentation necessary to verify the Social Security Number (SSN) of a family member under the age of six (6) years old. An extension of one additional 90-day period must be granted if HOC determines that, in its discretion, the applicant's failure to comply was due to circumstances that could not reasonably have been foreseen and were outside of the control of the applicant. For example, an applicant may be able to demonstrate timely submission of a request for a Social Security Number, in which case processing time would be the cause of the delay. If the applicant family does not produce the required documentation within the authorized time period, HOC must impose appropriate penalties, in accordance with the Code of Federal Regulations at 24 CFR 5.218.

If merited, HOC will offer a grace period and/or an extension. HOC will implement this provision just as it currently implements the provision for program participants. Specifically, an applicant family with a child under the age of six (6) years may become a participant family, even if the Social Security Number for the child has not been verified at the time of admission. If the Social Security Number has still not been verified at the end of the initial 90-day period, then HOC must determine whether a 90-day extension is merited. If it is not merited, then HOC must follow the provisions of 24 CFR 5.218. If a 90-day extension is merited, then HOC must either verify the Social Security Number for the child by the end of the 90-day extension period or follow the provisions of 24 CFR 5.218.

Failure to provide the required documentation during the recertification process will result in an incomplete recertification action and may subject the family to termination of housing assistance.

**Medical Need for Larger Unit**

A written certification that a larger unit is necessary must be obtained from a reliable, knowledgeable professional, such as a doctor, social worker, or caseworker.

## Chapter 8

### VOUCHER ISSUANCE AND BRIEFINGS

[24 CFR 982.301, 982.302]

#### **INTRODUCTION**

The PHA's goals and objectives are designed to assure that families selected to participate are equipped with the tools necessary to locate an acceptable housing unit. Families are provided sufficient knowledge and information regarding the program and how to achieve maximum benefit while complying with program requirements. When eligibility has been determined, the PHA will conduct a mandatory briefing to ensure that families know how the program works. The briefing will provide a broad description of owner and family responsibilities, PHA procedures, and how to lease a unit. The family will also receive a briefing packet that provides more detailed information about the program including the benefits of moving outside areas of poverty and minority concentration. This Chapter describes how briefings will be conducted, the information that will be provided to families, and the policies for how changes in the family composition will be handled.

#### **A. ISSUANCE OF VOUCHERS** [24 CFR 982.204(d), 982.54(d)(2)]

When funding is available, the PHA will issue Vouchers to applicants whose eligibility has been determined. The number of Vouchers issued must ensure that the PHA stays as close as possible to 100 percent lease-up. The PHA performs a monthly calculation electronically to determine whether applications can be processed, the number of Vouchers that can be issued, and to what extent the PHA can over-issue (issue more Vouchers than the budget allows to achieve lease-up).

The PHA may over-issue Vouchers only to the extent necessary to meet leasing goals. All Vouchers that are over-issued must be honored. If the PHA finds it is over-leased, it must adjust future issuance of Vouchers in order not to exceed the ACC budget limitations over the fiscal year.

**B. BRIEFING TYPES AND REQUIRED ATTENDANCE** [24 CFR 982.301]

**Initial Applicant Briefing**

A full HUD-required briefing will be conducted for applicant families who are determined to be eligible for assistance. The briefings will be conducted in groups. Families who attend group briefings and still have the need for individual assistance will be referred to their Rental Assistance Specialist. **HOC may conduct the briefing by other means, such as a webcast, video call, or expanded information packet. These alternative methods expire on June 30, 2021 in accordance with the waiver flexibility authorized in PIH Notice 2020-33.**

Briefings will be conducted in English.

The purpose of the briefing is to explain how the program works and the documents in the Voucher holder's packet to families so that they are fully informed about the program. This will enable them to utilize the program to their advantage, and it will prepare them to discuss it with potential owners and property managers.

The PHA will not issue a Voucher to a family unless the household representative has attended a briefing and signed the Voucher. Applicants who provide prior notice of inability to attend a briefing will automatically be scheduled for the next briefing. Applicants who fail to attend 2 scheduled briefings, without prior notification and approval of the PHA, may be denied admission based on failure to supply information needed for certification. The PHA will conduct individual briefings for families with disabilities at their home, upon request by the family, if required for reasonable accommodation.

**Briefing Packet** [24 CFR 982.301(b)]

The documents and information provided in the briefing packet for the voucher program will comply with all HUD requirements. The PHA also includes other information and/or materials that are not required by HUD. This information will be provided at the applicant's Initial and the participant's Move Briefing.

The family is provided with the following information and materials

The term of the voucher, and the PHA policy for requesting extensions or suspensions of the voucher (referred to as tolling).

A description of the method used to calculate the housing assistance payment for a family, including how the PHA determines the payment standard for a family; how the PHA determines total tenant payment for a family and information on the payment standard and utility allowance schedule. How the PHA determines the maximum allowable rent for an assisted unit.

For a family that qualifies to lease a unit outside the PHA jurisdiction under portability procedures, the information must include an explanation of how portability works.

The HUD required tenancy addendum, which must be included in the lease.

The Request for Approval of Tenancy form, and a description of the procedure for requesting approval for a unit.

A statement of the PHA policy on providing information about families to prospective owners.

The PHA Subsidy Standards including when and how exceptions are made and how the voucher size relates to the unit size selected.

The HUD brochure on how to select a unit and/or the HUD brochure "A Good Place to Live" on how to select a unit that complies with HQS.

The HUD brochure on lead-based paint and information about where blood level testing is available.

Information on Federal, State and local equal opportunity laws and a copy of the housing discrimination complaint form. The PHA will also include the pamphlet "Fair Housing: It's Your Right" and other information about fair housing laws and guidelines, and the telephone numbers of the local fair housing agency and the HUD enforcement office.

A list of units available for the Section 8 program which is updated monthly and compiled by bedroom size.

If the family includes a person with disabilities, notice that the PHA will provide assistance in locating accessible units.

The Family Obligations under the program.

The grounds on which the PHA may terminate assistance for a participant family because of family action or failure to act.

PHA informal hearing procedures including when the PHA is required to offer a participant family the opportunity for an informal hearing, and how to request the hearing.

Information packet including an explanation of how portability works, including a list of neighboring housing agencies with the name, address and telephone number of a portability contact person at each for use by families who move under portability. (required for PHAs in MSAs)

A family participating in the project-based voucher program will be offered available tenant-based assistance either under the voucher program or under another comparable form of tenant-based assistance as defined by HUD

Information regarding the PHA's outreach program that assists families who are interested in, or experiencing difficulty in obtaining available housing units in areas outside of minority concentrated locations.

The HQS checklist.

Procedures for notifying the PHA and/or HUD of program abuses such as side payments, extra charges, violations of tenant rights, and owner failure to repair.

The family's rights as a tenant and a program participant.

Requirements for reporting changes between annual recertifications.

Information on security deposits and legal referral services.

Exercising choice in residency

Choosing a unit carefully and only after due consideration.

The Family Self-Sufficiency program and its advantages.

If the family includes a person with disabilities, the PHA will ensure compliance with CFR 8.6 to ensure effective communication.

### **Move Briefing**

A full HUD-required move briefing will be held for participants who will be reissued a Voucher to move, and who have been recertified within the last 120 days, and have given notice of intent to vacate to their landlord. This briefing includes incoming and outgoing portable families. The briefings will be conducted in groups. Families who attend group briefings and still have the need for individual assistance will be referred to their Rental Assistance Specialist.

### **Owner Briefing**

Briefing may be held for owners periodically. The purpose of the briefing is to assure successful owner participation in the program. Information provided will include the responsibilities and obligations of the three parties.



**C. ENCOURAGING PARTICIPATION IN AREAS WITHOUT LOW INCOME OR MINORITY CONCENTRATION (Regional Opportunity Counseling (ROC) Grant)**

At the briefing, families are encouraged to search for housing in non-impacted areas and the PHA will provide assistance to families who wish to do so.

The PHA has areas of poverty and minority concentration clearly delineated in order to provide families with information and encouragement in seeking housing opportunities outside highly concentrated areas.

The PHA provides information about facilities and services in neighboring areas such as schools, transportation, and supportive and social services.

The PHA will investigate and analyze when voucher holders are experiencing difficulties locating or obtaining housing units outside areas of concentration.

The assistance provided to such families includes:

- Providing families with a search record form to gather and record info.
- Direct contact with landlords.
- Counseling with the family.
- Providing information about services in various non-impacted areas.
- Meeting with neighborhood groups to promote understanding.
- Formal or informal discussions with landlord groups.
- Formal or informal discussions with social service agencies.
- Meeting with rental referral companies or agencies.
- Will meet with fair housing groups or agencies as needed or upon request.

## **D. ASSISTANCE TO FAMILIES WHO CLAIM DISCRIMINATION**

The PHA will give participants a copy of HUD form 903 to file a complaint.

## **E. SECURITY DEPOSIT REQUIREMENTS** [24 CFR 982.313]

### **Leases Effective Prior to October 2, 1995**

The amount of Security Deposit that could have been collected by owners under contracts effective prior to October 2, 1995 is:

Under the pre-merger Certificate Program, the owner could have collected a Security Deposit in an amount not to exceed Total Tenant Payment or \$50.00, whichever is greater, for non-lease-in-place families.

For the pre-merger Voucher Program, the owner, at his/her discretion, could have collected a Security Deposit in an amount not to exceed (PHA policy):

The greater of 30% of adjusted monthly income or \$50 for non-lease-in-place families.

The amount charged to unassisted tenants may not exceed the maximum allowed under state or local law.

The greater of 30% of adjusted monthly income or [amount].

### **Leases Effective on or after October 2, 1995**

The owner is not required to, but may collect a security deposit up to the maximum allowed by State and local law.

Security deposits charged to families may be any amount the owner wishes to charge, subject to the following conditions:

Security deposits charged by owners may not exceed those charged to unassisted tenants nor the maximum prescribed by State or local law.

For lease-in-place families, responsibility for first and last month's rent is not considered a security deposit issue. In these cases, the owner should settle the issue with the tenant prior to the beginning of assistance.

**F. TERM OF VOUCHER** [24 CFR 982.303, 982.54(d)(11)]

During the briefing session, each household will be issued a voucher which represents a contractual agreement between the PHA and the Family specifying the rights and responsibilities of each party. It does not constitute admission to the program which occurs when the lease and contract become effective.

**Expirations**

The Voucher is valid for a period of at least ninety (90) calendar days from the date of issuance. The family must submit a Request for Tenancy Approval and Lease within the ninety-day period unless an extension has been granted by the PHA.

If the Voucher has expired, and has not been extended by the PHA or expires after an extension, the family will be denied assistance. The family will not be entitled to a review or hearing. If the family is currently assisted, they may remain as a participant in their unit if there is an assisted lease/contract in effect.

**Suspensions**

When a Request for Approval of Tenancy is received, the PHA will deduct the number of days required to process the request from the 90 day term of the voucher.

## **Extensions**

The PHA will extend the term up to 150 days from the beginning of the initial term if the family needs and request an extension as a reasonable accommodation to make the program accessible to and usable by a family member with a disability. If as a reasonable accommodation, the family needs an extension in excess of 150 days, they must request the same in writing, prior to the expiration date of the voucher. The PHA may grant such a request.

A family may request an extension of the voucher time period. All requests for extensions must be received, in writing, prior to the expiration date of the voucher.

Extensions are permissible at the discretion of the PHA up to a maximum of an additional 60 days primarily for these reasons:

- Extenuating circumstances such as hospitalization or a family emergency for an extended period of time which has affected the family's ability to find a unit within the initial 90 day period. Verification is required.
- The PHA is satisfied that the family has made a reasonable effort to locate a unit, including seeking the assistance of the PHA, throughout the initial 90 day period. A completed search record **is** required.
- The family was prevented from finding a unit due to disability accessibility requirements or bedroom unit requirement. The Search Record is part of the required verification.

The PHA extends in one or more increments. Unless approved by the Director or the Assistant Director of Rental Assistance, extensions will not exceed more than a total of an additional sixty days to the initial term of the voucher. **HOC may grant extensions for other non-listed reasons through June 30, 2021. This temporary policy is in accordance with waiver flexibility authorized in PIH Notice 2020-33.**

## **Assistance to Voucher Holders**

Families who require additional assistance during their search may call the PHA Office to request assistance. Voucher holders will be notified at their briefing session that the PHA periodically updates the listing of available units and how the updated list may be obtained.

The PHA will assist families with negotiations with owners and provide other assistance related to the families' search for housing.

After the first 30 days of the search the family is required to maintain a search record.

**G. VOUCHER ISSUANCE DETERMINATION FOR SPLIT HOUSEHOLDS**

24 CFR 982.315]

In those instances when a family assisted under the Section 8 program becomes divided into two otherwise eligible families due to divorce, legal separation, or the division of the family, and the new families cannot agree as to which new family unit should continue to receive the assistance, and there is no determination by a court, the Director of Rental Assistance shall consider the following factors to determine which of the families will continue to be assisted:

- Which of the two new family units has custody of dependent children.
- Which family member was the head of household when the Voucher was initially issued (listed on the initial application).
- The composition of the new family units, and which unit contains elderly or disabled members.
- Whether domestic violence was involved in the breakup.
- Which family members remain in the unit.
- Recommendations of social service professionals.

Documentation of these factors will be the responsibility of the requesting parties.

If documentation is not provided, the PHA will terminate assistance on the basis of failure to provide information necessary for a recertification.

## **H. REMAINING MEMBER OF TENANT FAMILY - RETENTION OF VOUCHER**

[24 CFR 982.315]

To be considered the remaining member of the tenant family, the person must have been previously approved by the PHA to be living in the unit.

A live-in attendant, by definition, is not a member of the family and will not be considered a remaining member of the Family.

In order for a minor child to continue to receive assistance as a remaining family member:

- The court has to have awarded emancipated minor status to the minor, or
- The PHA has to have verified that social services and/or the Juvenile Court has arranged for another adult to be brought into the assisted unit to care for the child(ren) for an indefinite period.

A reduction in family size may require a reduction in the voucher family unit size.

## **I. SPLIT HOUSEHOLDS DURING PROGRAM PARTICIPATION**

When families currently receiving assistance split, the current head of household retains continual voucher assistance. Remaining family members must separately apply when the waiting list is open to receive assistance.

## Chapter 9

### REQUEST FOR APPROVAL OF TENANCY AND CONTRACT EXECUTION

[24 CFR 982.302]

#### **INTRODUCTION** [24 CFR 982.305(a)]

The PHA's program operations are designed to utilize available resources in a manner that is efficient and provides eligible families timely assistance based on the number of units that have been budgeted. The PHA's objectives include maximizing HUD funds by providing assistance to as many eligible families and for as many eligible units as the budget will allow.

After families are issued a voucher, they may search for a unit anywhere within the jurisdiction of the PHA or outside of the PHA's jurisdiction if they qualify for portability. The family must find an eligible unit under the program rules, with an owner/landlord who is willing to enter into a Housing Assistance Payments Contract with the PHA. This Chapter defines the types of eligible housing, the PHA's policies that pertain to initial inspections, lease requirements, owner disapproval, and the processing of Requests For Approval of Tenancy (RFAT).

**A. REQUEST FOR APPROVAL OF TENANCY** [24 CFR 982.302, 982.305(b)]

The Request for Approval of Tenancy (RFAT) and a copy of the proposed Lease, including the HUD prescribed tenancy addendum, must be submitted by the family during the term of the voucher. The family must submit the Request for Approval of Tenancy in the form and manner required by the PHA.

The Request for Approval of Tenancy must be signed by both the owner and Voucher holder.

The PHA will not permit the family to submit more than one RFAT at a time.

The PHA will review the proposed lease and the Request for Approval of Tenancy documents to determine whether or not they are approvable. The Request will be approved if:

The unit is an eligible type of housing

The unit meets HUD's Housing Quality Standards (and any additional criteria as identified in this Administrative Plan)

The rent is reasonable

The Security Deposit is approvable in accordance with any limitations in this plan.

The proposed lease complies with HUD and PHA requirements (See "Lease Review" section below).

The owner is approvable, and there are no conflicts of interest (See "Owner Disapproval" section below). In addition to the above, at the time a family initially receives assistance (new admissions and moves), the family share of rent may not exceed 40 percent of the family monthly adjusted income (See "Owner Rents, Rent Reasonableness and Payment Standards" chapter of this Administrative Plan).

**Disapproval of RFAT**

When, for any reason, an RFAT is not approved, the PHA will furnish another RFAT form to the family so that the family can continue to search for eligible housing.



**B. ELIGIBLE TYPES OF HOUSING** [24 CFR 982.353, 982.54(d)(15)]

The PHA will approve any of the following types of housing in the Voucher program: All structure types can be utilized.

Manufactured homes where the tenant leases the mobile home and the pad.

Manufactured homes where the tenant owns the mobile home and leases the pad for Vouchers

Congregate facilities (only the shelter rent is assisted)

Single Room Occupancy

Units owned (but not subsidized) by the PHA (following HUD-prescribed requirements).

A family can own a rental unit but cannot reside in it while being assisted, except in the case when the tenant owns the mobile home and leases the pad. A family may lease in and have an interest in a cooperative housing development.

The PHA may not permit a voucher holder to lease a unit that is receiving Project-Based Section 8 assistance or any duplicative rental subsidies.

**C. LEASE REVIEW** [24 CFR 982.308]

**Actions Before Lease Term**

All of the following must always be completed before the beginning of the initial term of the lease for a unit:

The PHA has inspected the unit and has determined that the unit satisfies the HQS;

The landlord and the tenant have executed the lease, including the HUD-prescribed tenancy addendum; and

The PHA has approved leasing of the unit in accordance with program requirements.

**D. SEPARATE AGREEMENTS**

Separate agreements are not necessarily illegal side agreements. Families and owners will be advised of the prohibition of illegal side payments for additional rent, or for items normally included in the rent of unassisted families, or for items not shown on the approved lease.

The family is not liable under the lease for unpaid charges for items covered by separate agreements and nonpayment of these agreements cannot be cause for eviction.

Owners and families may execute separate agreements for services, appliances (other than range and refrigerator) and other items that are not included in the lease if the agreement is in writing and approved by the PHA.

Any appliances, services or other items that are routinely provided to unassisted families as part of the lease (such as air conditioning, dishwasher or garage) or are permanently installed in the unit, cannot be put under separate agreement and must be included in the lease. For there to be a separate agreement, the family must have the option of not utilizing the service, appliance or other item.

If the family and owner have come to a written agreement on the amount of allowable charges for a specific item, so long as those charges are reasonable and not a substitute for higher rent, they will be allowed.

All agreements for special items or services must be attached to the lease approved by the PHA. If agreements are entered into at a later date, they must be approved by the PHA and attached to the lease.

The PHA will not approve separate agreements for modifications to the unit for persons with disabilities. The modifications are usually within the dwelling and are critical to the use of the dwelling.

**E. INITIAL INSPECTIONS** [24 CFR 982.305(a) & (b)]

See "Housing Quality Standards and Inspections" chapter of this Administrative Plan.

**F. RENT LIMITATIONS** [24 CFR 982.503]

The PHA will make a determination as to the reasonableness of the proposed rent in relation to comparable units available for lease on the private unassisted market, and the rent charged by the owner for a comparable unassisted unit in the building or premises.

**G. DISAPPROVAL OF PROPOSED RENT** [24 CFR 982.502]

In any of the programs, if the proposed Gross Rent is not reasonable, at the family's request, the PHA will negotiate with the owner to reduce the rent to a reasonable rent.

At the family's request, the PHA will negotiate with the owner to reduce the rent or include some or all of the utilities in the rent to owner.

If the rent can be approved after negotiations with the owner, the PHA will continue processing the RFAT and Lease. If the revised rent involves a change in the provision of utilities, a new RFAT must be submitted by the owner.

If the owner does not agree on the Rent to Owner after the PHA has tried and failed to negotiate a revised rent, the PHA will inform the family and owner that the lease is disapproved.

**H. INFORMATION TO OWNERS** [24 CFR 982.307(b), 982.54(d)(7)]

In accordance with HUD requirements, the PHA will furnish, upon written request to the prospective owners, the name and address of the last known landlord.

The PHA will inform owners that it is the responsibility of the landlord to determine the suitability of prospective tenants. Owners will be encouraged to screen applicants for rent payment history, payment of utility bills, eviction history, respecting the rights of other residents, damage to units, drug-related criminal activity or other criminal activity that is a threat to the health, safety or property of others, and compliance with other essential conditions of tenancy.

A statement of the PHA's policy on release of information to prospective landlords will be included in the briefing packet that is provided to the family.

The PHA will not provide documented information regarding tenancy history to prospective landlords.

The PHA will not furnish prospective owners with information about the family's rental history, or any history of drug trafficking.

**I. OWNER DISAPPROVAL** [24 CFR 982.306]

See Chapter on "Owner Disapproval and Restriction."

**J. CHANGE IN TOTAL TENANT PAYMENT (TTP) PRIOR TO HAP EFFECTIVE DATE**

When the family reports changes in factors that will affect the Total Family Share prior to the effective date of the HAP contract at admission, the information will be verified and the Total Family Share will be recalculated. If the family does not report any change, the PHA need not obtain new verifications before signing the HAP Contract, even if verifications are more than 60 days old.

**K. CONTRACT EXECUTION PROCESS** [24 CFR 982.305(c)]

The PHA prepares the Housing Assistance Contract for execution. The owner and family will execute the Lease agreement. The owner and the PHA will execute the HAP Contract. A copy of the HAP contract will be furnished to the landlord who signed the respective documents. The PHA will retain a copy of all signed documents.

The PHA makes every effort to execute the HAP Contract before the commencement of the lease term. The HAP Contract may not be executed more than 60 days after commencement of the lease term and no payments will be made until the contract is executed. **Through June 30, 2021 HOC may execute the HAP contract no later than 120 days from the beginning of the lease term. This temporary policy is in accordance with the waiver flexibility authorized in PIH Notice 2020-33.**

The Director of Rental Assistance or other designated official is/are authorized to execute a contract on behalf of the PHA.

Owners must provide the current address of their residence (not a Post Office box). If families lease properties owned by relatives, the owner's current address will be compared to the subsidized unit's address.

The owner must provide a home telephone number and business number if applicable.

Unless the lease was effective prior to June 17, 1998, a family may not lease properties owned by a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA may waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

**L.**     **CHANGE IN OWNERSHIP** See Owner Disapproval and Restriction" chapter.

Reserved

## Chapter 10

### HOUSING QUALITY STANDARDS AND INSPECTIONS

[24 CFR 982.401]

#### **INTRODUCTION**

Housing Quality Standards (HQS) are the U.S. Department of Housing and Urban Development's (HUD) minimum quality standards for tenant-based programs. All voucher units are required to meet HQS standards both at initial occupancy and during the term of the lease. HQS standards apply to the building and premises, as well as to the unit. Newly leased units must pass the HQS inspection before the beginning date of the assisted lease and Housing Assistance Payment (HAP) contract.

HOC inspects each unit under contract with one of its voucher families at least annually. HOC also has an inspection supervisor perform quality control inspections on the number of files required for file sampling for the Section Eight Management Assessment Program (SEMAP) annually to maintain HOC's required standards and to assure consistency in HOC's program. A separate sample, also meeting SEMAP thresholds, of any owner-certified repairs following a failed inspection is subject to quality control review by an HOC inspections supervisor. This Chapter describes HOC's procedures for performing HQS and other types of inspections, and HOC's standards for the timeliness of deficiency repairs following a failed inspection. This Chapter also explains the responsibilities of the owner and the family in the inspections process, and the consequences of non-compliance with HQS requirements for both families and owners. The use of the term "HQS" in this Administrative Plan refers to the combination of both HUD and HOC's requirements. Please see the additions to HQS listed under "Acceptability Criteria and Exceptions to HQS" later in this chapter for more information about HOC's additions to HUD's HQS criteria.

#### **A. GUIDELINES/ TYPES OF INSPECTIONS** [24 CFR 982.401(a), 982.405]

At all times, HOC encourages owners to provide housing above HQS minimum standards. HOC does not promote any additional acceptability criteria which is likely to adversely affect the health or safety of participant families, or severely restrict housing choice.

All utilities must be active and in service prior to the HOC's inspection of the unit. If the utilities are not in service at the time of inspection, the inspector notifies the tenant or owner (whomever is responsible for the utilities according to the Request for Tenancy Approval [RFTA]) and requests that the utilities are turned on. The inspector then schedules a re-inspection.

There are five types of inspections which HOC performs:

1. Initial/Move-in: Conducted upon receipt of RFTA;
2. Annual: Conducted within 12 months of the last annual inspection;

3. Special/Complaint: At the request of an owner, family, agency, or third-party;
4. Quality Control: Conducted by HOC's inspection lead or supervisor; and
5. Move-Out/Vacate: An inspection requested by the landlord to demonstrate tenant-caused damages.

**B. INITIAL HOS INSPECTION** [24 CFR 982.401(a)]

**Timely Initial HOS Inspection**

HOC inspects the unit, determines whether the unit satisfies HQS and notifies the family and owner of the determination in writing within 15 days unless HOC determines that it is unable to do so in the stated timeframe; in which case the file is appropriately documented to explain the delayed notification. Through June 30, 2021, HOC may rely the owner's certification that the owner has no reasonable basis to have knowledge that life threatening conditions exist in the unit instead of conducting an initial inspection. HOC must conduct an inspection in the unit no later than 1 year from the date of the owner's certification. This temporary provision is in accordance with the waiver flexibility authorized in PIH Notice 2020-33.

Through June 30, 2021, HOC may authorize occupancy of a unit if the unit passed an alternative inspection in the previous 24 months. The owner must certify that he/ she has reasonable basis to have knowledge that no life threatening conditions exist in the unit. HOC must conduct the HQS inspection no later than 1 year from the date of the owner's certification This temporary provision is in accordance with the waiver flexibility authorized in PIH Notice 2020-33.

HOC makes every reasonable effort to conduct initial HQS inspections for the family and owner in a manner that is time efficient and indicative of good customer service.

HOC periodically reviews the average time required for a family and owner to have a unit inspected from the time the RFTA is submitted by the family and owner to HOC.

If HOC determines after a periodic review of files that the average time for a family and owner to obtain an initial inspection is longer than 15 days, HOC will review staffing needs relevant to HQS inspection and make improvements.

The Initial Inspection is conducted to:

Determine if the unit and property meet the HQS defined in this Administrative Plan.

Document the current condition of the unit as to assist in future evaluations whether the condition of the unit exceeds normal wear and tear.

Document the information used for determination of rent-reasonableness.



If the unit fails the initial HQS inspection, the owner is advised to notify HOC once repairs are completed.

On an initial inspection, the owner is given up to 30 days to correct the items noted as failed, at the inspector's discretion, depending on the amount and complexity of work to be done.

HOC may provide the owner an additional 30 days to make repairs for non-life threatening deficiencies. The period of availability to approve an additional 30 days is temporary and ends June 30, 2021. This temporary provision is in accordance with the wavier flexibility authorized in PIH Notice 2020-33.

The owner is allowed up to one re-inspection for repair work to be completed. At its discretion, HOC may accept owner certification that the repairs were completed as detailed in the initial inspection.

If the time period given by the inspector to correct the repairs elapses, or the maximum number of failed re-inspections occurs, then the family must select another unit.

Families are not adversely impacted by the failure of a unit to pass the initial HQS inspection. Instead, HOC extends the remaining time on the voucher by suspending the voucher timeline from the date of HOC's receipt of the RFTA until notification to select another unit. This is known as tolling time.

### **Project-Based Voucher (PBV)**

**Pre-HAP Contract Inspections-** HOC is not required to conduct pre-contract inspections and may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life threatening conditions exist in the PBV units. HOC must inspect the units no later than 1 year from the date of the owner's certification. This temporary provision expires on June 30, 2021 is in accordance with the waiver flexibility authorized in PIH Notice 2020-33.

**PBV Turnover Inspections:** HOC may waive the initial inspection requirement to fill a turnover PBV unit. HOC may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life threatening conditions exist in the PBV units. HOC must inspect the units no later than 1 year from the date of the owner's certification. This temporary provision expires on June 30, 2021 and is in accordance with waiver flexibility authorized in PIH Notice 2020-33.

### **PBV HAP Contract – HQS Inspections to Substitute Units**

HOC may amend the PBV HAP Contract to add additional PBV contract units or to substitute a different unit for a previously covered contract unit without conducting an initial inspection. This is subject to the PBV program cap and income mixing requirements. HOC may rely on the owner's certification that the owner has no reasonable basis to have knowledge that life threatening conditions exist in the unit or units in question. HOC must inspect the than no later than 1 year from the date of the owner's certification. This temporary provision expires on June 30, 2021 and is in accordance with waiver flexibility authorized in PIH Notice 2020-33.

**C. ANNUAL HOS INSPECTIONS** [24 CFR 982.405(a)]

HOC conducts a unit inspection in accordance with HQS at least annually. These annual inspections are scheduled for 60 days prior to the anniversary of the last annual inspection, so that the inspections are conducted at least annually, as required by the Section Eight Management Assessment Program (SEMAP). Special inspections may be scheduled between anniversary dates.

Landlords must correct any HQS deficiencies that cause a unit to fail unless it is a fail for which the tenant is responsible.

The family must allow HOC to inspect the unit at reasonable times with reasonable notice. [24 CFR 982.51 (d)]

Inspections are conducted on business days only.

Reasonable hours to conduct an inspection are between 8:30 a.m. and 4:00 p.m.

HOC notifies the family in writing at least three days prior to the inspection.

First Inspection: The family and the owner are notified of the date and time of the inspection appointment in writing using postal or electronic mail. The family is required to provide access to the unit for any inspection. If the family is unable to participate and is unable to otherwise arrange access, they must reschedule the appointment. Rescheduling must occur within 72 hours of the initial scheduled inspection date. HOC permits only one such rescheduling per year.

If the family fails to provide access to the unit, HOC considers the family to have violated a Family Obligation and their assistance may be terminated in accordance with the termination procedures in this Administrative Plan. HOC will reschedule up to one HQS inspection, due to a missed appointment, as long as the inspection is completed within scheduling requirements.

Re-inspection: The family and owner are provided a notice of any re-inspection appointment by postal or electronic mail. HOC may accept owner certification that the repairs were completed as detailed in the initial inspection. If the family is not at home for the re-inspection appointment, a card is left at the unit. The appointment letter contains a warning of abatement and a notice of the owner's responsibility. After this point, responsibility to open the unit for the inspector falls on the unit owner or landlord.

The family is also notified that it is a Family Obligation to allow HOC to inspect the unit. If the family is responsible for a breach of HQS identified in the "Denial or Termination of Assistance" chapter of this Administrative Plan, they will be advised of their responsibility to correct.

**Time Standards for Repairs**

Emergency items which endanger the family's health or safety must be corrected by the owner within 24 hours of notification. (See Emergency Repair Items section.)

For non-emergency items, repairs are required within 30 days.

Failure by either the family or the owner to provide access to the unit for re-inspection does not extend the 30-day time frame to complete repairs, and HOC will abate the unit.

For major repairs, HOC may approve a written request from the owner for an extension beyond 30 days.

Rent Increases: HOC may not approve rent to owner increases if the unit is in a failed condition.

**D. SPECIAL/COMPLAINT INSPECTIONS** [24 CFR 982.405(c)]

If at any time the family or owner notifies HOC that the unit does not meet HQS, HOC will conduct an inspection to verify the condition of the unit. **If the reported deficiency is life threatening HOC will notify the owner of the deficiency in lieu of conducting an inspection. The owner must correct the deficiency within 24 hours of the HOC notification or provide documentation that the deficiency does not exist. HOC is not required to conduct an on-site inspection to verify that the repairs have been made, but may rely on alternative verification methods. This temporary provision expires on June 30, 2021 and is in accordance with the wavier flexibility authorized in PIH Notice 2020-33.**

HOC may also conduct a special inspection based on information from third parties such as neighbors or public officials.

HOC will inspect only the items which were reported, but if the Inspector notices additional deficiencies that would cause the unit to fail HQS, the responsible party will be required to make the necessary repairs following the special inspection.

If the annual inspection date is within 120 days of a special inspection, and as long as all items are inspected that are included in an annual inspection, the special inspection may be categorized as the annual inspection and all annual procedures will be followed at that time.

**E. QUALITY CONTROL INSPECTIONS** [24 CFR 982.405(b)]

Quality Control inspections are performed by the Housing Inspections Supervisor, or another designated official, on the number of files required by SEMAP for the given fiscal year. The purpose of Quality Control inspections is to confirm that each inspector is conducting accurate and complete inspections, and to ensure that there is consistency among inspectors in application of the HQS.

The sampling of files for the Quality Control inspections includes recently completed inspections (within the prior 90 days), a cross-section of neighborhoods, and a cross-section of inspectors.

**F. MOVE OUT/VACATE**

A move out inspection is performed only at the landlord's request. HOC may charge the landlord a fee in order to conduct these inspections.

**G. ACCEPTABILITY CRITERIA AND EXCEPTIONS TO HQS** [24 CFR 982.401(a)]

HOC strictly adheres to the acceptability criteria in the Housing Choice Voucher program regulations at 24 CFR, Section 982. However, HOC amends the acceptability criteria to require that an owner participating in the HOC's voucher program comply with the local government rental licensing requirements in Montgomery County, Maryland. HOC allows owners adequate time to obtain the required license(s). However, HOC will not enter into a HAP contract with an unlicensed owner. HOC may hold HAP from an owner under contract when HOC is notified by Montgomery County that the owner failed to maintain the appropriate rental license(s).

**Modifications**

Modifications or adaptations to a unit due to a disability must meet all applicable HQS and building codes.

Extension for repair items not required by HQS may be granted for modifications/ adaptations to the unit if agreed to by the tenant and the landlord. HOC will allow execution of the HAP contract if the unit meets all requirements and the modifications do not affect the livability of the unit.

**H. EMERGENCY REPAIR ITEMS** [24 CFR 982.401(a)]

The following items are considered of an emergency nature and require repair by the owner or tenant (whoever is responsible) within 24 hours of notice by the inspector:

- Lack of security for the unit;
- Waterlogged ceiling in imminent danger of falling;
- Major plumbing leaks or flooding;
- Natural gas leaks or fumes;
- Electrical problems which could result in shock or fire;
- No heat when the outside temperature is below 10 degrees Fahrenheit and the temperature inside the unit is below 68 degrees Fahrenheit;
- Utilities not in service;
- No running hot water;
- Broken glass where someone could be injured;
- Obstacle which prevents tenant's entrance or exit;
- Lack of functioning toilet; and

- Non-working smoke detector or missing smoke detector, as required.

HOC may give a short extension (not more than 48 additional hours) if immediate notification of the responsible party is delayed or if it is impossible to make the repair within the 24-hour period.

In those cases where there is leaking gas, potential for fire, or other threat to public safety, and the responsible party cannot be notified immediately or it is impossible to make the repair within 24 hours, HOC will notify the proper authorities.

If the emergency repair item(s) are not corrected in the time period required by HOC, and the owner is responsible, payments to the owner are abated and the HAP contract is terminated.

If the emergency repair item(s) are not corrected in the time period required by HOC, and it is an HQS breach that is a family obligation, HOC terminates the assistance to the family.

### **Smoke Detectors**

Inoperable smoke detectors are a serious health and safety threat and are treated by HOC as an emergency (24-hour) fail item.

HOC will issue a written warning to any family determined to have purposely disconnected a unit's smoke detector. The warning will state that deliberate disconnection of the unit's smoke detector is a health and fire hazard and is considered a violation of HQS.

### **I. CONSEQUENCES IF OWNER IS RESPONSIBLE (NON-EMERGENCY ITEMS)** [24 CFR 982.405, 982.453]

If a unit fails to meet HQS due to an owner-caused deficiency at the re-inspection, the HAP to the owner is abated.

### **Abatement**

A Notice of Abatement is sent to the owner, explaining that the abatement is effective from the day after the date of the failed inspection. The notice is for 30 days.

HOC will inspect abated units within 15 days of the owner's notification that the repair work is completed.

If the owner makes repairs during the abatement period, payment resumes on the day the unit passes inspection.

No retroactive payments are made to the owner for the abatement period. The notice of abatement states that the tenant is not responsible for HOC's portion of rent during the abatement. However, the tenant must continue to pay their portion of the rent even during the abatement period.

### **Reduction of Payments**

HOC may grant an extension in lieu of abatement in the following cases:

The owner is experiencing extenuating circumstances and has a good history of HQS compliance.

- There is an unavoidable delay in completing repairs due to difficulties in obtaining parts or contracting for services.
- The owner makes a good faith effort to make the repairs.
- The repairs are expensive (such as exterior painting or roof repair) and the owner needs time to obtain the necessary funds.
- The repairs are delayed due to climate conditions.

Owners must provide supporting documentation to request abatement extension. Extensions are made for a period of time not to exceed 30 days. At the end of that time, at HOC's discretion, if the work is not completed, HOC will begin the abatement.

### **Termination of Contract**

If the owner is responsible for repairs, and fails to correct all of the deficiencies cited prior to the end of the abatement period (which is 30 days), the owner and the tenant are sent a HAP Contract Proposed Termination Notice. The tenant is also notified of a scheduled relocation appointment. The proposed termination notice is a 60-day notice. The family is required to begin the process to relocate from the unit or risk termination from the program. Prior to the effective date of the termination, if the repairs are not completed, the abatement remains in effect.

If repairs are completed before the effective termination date, the termination may be rescinded by HOC if the tenant chooses to remain in the unit. Only one HQS inspection is conducted after the termination notice is issued.

### **J. DETERMINATION OF RESPONSIBILITY** [24 CFR 982.404, 982.54(d)(14)]

Certain HQS deficiencies are considered the responsibility of the family, such as:

- Tenant-paid utilities not in service
- Failure to provide or maintain family-supplied appliances
- Damage to the unit, or premises, caused by a household member or guest beyond normal wear and tear
  - "Normal wear and tear" is defined as items which could be charged against the tenant's security deposit under state law or court practice.
- Vermin infestation in a rented single-family home or other detached unit.

The owner is responsible for all other HQS violations.

The owner is responsible for any vermin infestation for multifamily and non-detached units. However, if such infestation is caused by the family's living habits and is serious and repeated, it may be considered a lease violation. The owner may then evict the family for violation of the lease. HOC may choose to terminate the family's assistance on that basis as well.

If the family is responsible but the owner carries out the repairs, the owner is encouraged to bill the family for the cost of the repairs.

**K. CONSEQUENCES IF FAMILY IS RESPONSIBLE** [24 CFR 982.404(b)]

If the family is responsible for any emergency or non-emergency violations of HQS, then the family is responsible to work with the owner or landlord to make any repair(s) or corrections within 24 hours or 30 days, as appropriate. If the repair(s) or correction(s) are not made in this time period, HOC will terminate assistance to the family, after providing an opportunity for an informal hearing. Extensions in these cases require approval by the Housing Inspector Supervisor or another designated official. The owner's rent is not abated for items that are the family's responsibility.

If the tenant is responsible and corrections are not made, the HAP Contract is terminated when the assistance to the family is terminated. HOC will provide the owner with adequate notice (no less than 30 days) of the termination date of the HAP. Contract cancellation due to tenant-caused HQS deficiencies does not preclude the owner from immediately executing a new HAP with HOC for another voucher tenant.

## Chapter 12

### RECERTIFICATIONS

[24 CFR 982.516]

#### INTRODUCTION

In accordance with HUD requirements, the HOC will reexamine the income and household composition of all families at least annually, except for those with a fixed source of income who may be eligible for reexamination only once every three years. Families will be provided accurate annual and interim rent adjustments. Recertifications and interim examinations will be processed in a manner that ensures families are given reasonable notice of rent increases. All annual activities will be coordinated in accordance with HUD regulation. It is a HUD requirement that families report all changes in household composition. This Chapter defines HOC's policy for conducting recertifications and coordinating annual activities. It also explains the interim reporting requirements for families, and the standards for timely reporting.

#### A. ANNUAL ACTIVITIES [24 CFR 982.516, 982.405]

There are three activities HOC must conduct on an annual basis. These activities will be coordinated whenever possible:

Recertification of Income and Family Composition (except for those with a fixed-income)

HQS Inspection

Rent to Owner Adjustment (following HUD requirements [Regular Tenancy Certificate only])

HOC produces a monthly listing of units under contract to ensure that timely reviews of rent to owner, housing quality, and factors related to Total Tenant Payment/Family Share can be made. Requests for rent adjustments and other monetary changes will be transmitted to the Housing Resources Division.

Reexamination of the family's income and composition must be conducted at least annually.

Annual inspections: See "Housing Quality Standards and Inspections" chapter.

Rent Adjustments: See "Owner Rents, Rent Reasonableness and Payment Standards" chapter.

#### B. ANNUAL RECERTIFICATION/REEXAMINATION [24 CFR 982.516]

Families are required to be recertified at least annually, except for those with a fixed source of income who may be eligible for reexamination only once every three years. At the first interim or annual certification on or after June 19, 1995, family members must report and verify their U.S. citizenship/eligible immigrant status.



## **Fixed-Income Families**

At HOC's discretion income determinations for any family member with a fixed source of income may result in reexamination only once every three years, instead of annually. Note that the family member may also have non-fixed sources of income, which remain subject to third-party verification. Upon request of the family, HOC must perform third-party verification of all income sources. Note that this provision pertains only to the verification of sources of income; HOC must continue to conduct third-party verification of deductions. For purposes of this Notice, the term "fixed-income" includes income from:

- Social Security payments, to include Supplemental Security Income (SSI) and Supplemental Security Disability Insurance (SSDI);
- Federal, state, local, and private pension plans; and
- Other periodic payments received from annuities, insurance policies, retirement funds, disability or death benefits, and other similar types of periodic payments.

This determination will be made by applying a verified cost of living adjustment (COLA) or current rate of interest to the previously verified or adjusted income amount. The COLA or current interest rate applicable to each source of fixed income must be obtained either from a public source or from tenant provided, third-party generated documentation. In the absence of such verification for any source of fixed income, third-party verification of income amounts must be obtained.

For any family member whose income is determined pursuant to this streamlined fixed-income determination, third-party verification of all income amounts for all family members must be performed at least every three years. This means that, for the third income determination involving a family member whose income had been adjusted twice using a streamlined income determination, HOC would need to obtain third-party verification of all income amounts. This also means that if a family member with a fixed income source is added to the family during year two, for example, then HOC must obtain third-party verification of all income amounts for that family member at the next reexamination if HOC wishes to have all family members with fixed incomes on the same schedule with respect to streamlined annual reexaminations.

## **Pre-Merger Reexamination Issues**

For all pre-merger tenancies the rent calculation methods will not change until the effective date of the second regular reexamination of family income and composition, following the merger date, unless the family moves or accepts a new lease from the owner.

If there has been an increase in the payment standard prior to the effective date of the first regular reexamination of a pre-merger Voucher or Over Fair Market Rent Tenancy Certificate following the merger date, the family will receive the benefit of the higher payment standard, provided there has not been a change in family size or composition that would require the PHA to adjust the family unit size.

### **Moves Between Reexaminations**

When families move to another dwelling unit the anniversary date for the recertification will be changed.

Income limits are not used as a test for continued eligibility at recertification.

### **Reexamination Notice to the Family**

The PHA will maintain a reexamination tracking system and the household will be notified by mail of the date and time for their interview at least 120 days in advance of the anniversary date. If requested as an accommodation by a person with a disability, the PHA will provide the notice in an accessible format. The PHA will also mail the notice to a third party, if requested as reasonable accommodation for a person with disabilities. These accommodations will be granted upon verification that they meet the need presented by the disability.

### **Procedure**

The PHA's procedure for conducting annual recertifications will be to schedule the date and time of appointments and mail a notification to the family

### **Completion of Annual Recertification**

The PHA will have all recertifications for families completed before the anniversary date. This includes notifying the family of any changes in rent at least 30 days before the scheduled date of the change in family rent. **HOC may delay the annual recertification until June 30, 2020. This temporary delay is in accordance with the waiver flexibility authorized in PIH Notice 2020-13.**

### **Persons with Disabilities**

Persons with disabilities who are unable to come to the PHA's office will be granted an accommodation by conducting the interview including an interview in the participant's home or by mail upon verification that the accommodation requested meets the need presented by the disability.

### **Collection of Information** [24 CFR 982.516(0)]

The PHA has established appropriate recertification procedures necessary to ensure that the income data provided by families is complete and accurate.

The PHA will require the family to complete a Personal Declaration Form prior to all recertification interviews.

### **Requirements to Attend**

The following family members will be required to attend the recertification interview:

The head of household only.

If the head of household is unable to attend the interview:

The spouse/co-head may recertify for the family.

### **Failure to Respond to Notification to Recertify**

The written notification must state which family members are required to attend the interview.

If the family does not appear for the recertification interview, and has not rescheduled or made prior arrangements with the PHA, the PHA will reschedule a second appointment.

If the family fails to appear for the second appointment, and has not rescheduled or made prior arrangements, the PHA will:

Send family notice of termination and offer them an informal hearing.

Exceptions to these policies may be made by the Rental Assistance Specialist if the family is able to document an emergency situation that prevented them from canceling or attending the appointment or if requested as a reasonable accommodation for a person with a disability. Written notification will be sent to the owner and family of the reschedule appointment.

### **Documents Required From the Family**

In the notification letter to the family, the PHA will include instructions for the family to bring the completed Recertification Packet, along with supporting documentation. The PHA will periodically require the family to submit documentation to support special needs including live-in attendants, equipment or other items as specified by a reliable, knowledgeable professional such as a doctor, social worker or caseworker.

### **Verification of Information**

The PHA will follow the verification procedures and guidelines described in this Plan. Verifications for reexaminations must be less than 60 days old.

### **Tenant Rent Increase**

If tenant rent increases, a 30 day notice is mailed to the family prior to the scheduled effective date of the annual recertification.

If less than 30 days are remaining before the scheduled effective date of the annual recertification, the tenant rent increase will be effective on the first of the month following the 30 day notice.

If there has been a misrepresentation or a material omission by the family, or if the family causes a delay in the reexamination processing, there will be a retroactive increase in rent to the scheduled effective date of the annual recertification.

## **Tenant Rent Decreases**

If tenant rent decreases, it will be effective on the anniversary date.

If the family causes a delay so that the processing of the reexamination is not complete by the anniversary date, rent change will be effective on the first day of the month following completion of the reexamination processing by the PHA.

## **C. REPORTING INTERIM CHANGES** [24 CFR 982.516]

Program participants must report all changes in household composition to the PHA between annual reexaminations. This includes additions due to birth, adoption and court-awarded custody. The family must obtain PHA approval prior to all other additions to the household.

New family members that can be added are additions due to birth, adoption and court awarded custody. Exceptions may be made for a reasonable accommodation for a live in aide, or adding a spouse or significant other, an elderly relative in an effort to improve the quality of life of the relative, or a returning household member under the age of 21.

The PHA will verify that the family member to be added has been approved by the current landlord. This verification shall be provided by the landlord in writing. The PHA will determine the eligibility of the individual prior to addition. Once the individual is approved for addition, a revised contract addendum is required to be executed and a new lease or lease amendment will be necessary.

The U.S. citizenship/eligible immigrant status of additional family members must be declared and verified as required at the first interim or regular recertification after moving into the unit.

## **Increases in Income**

### **Interim Reexamination Policy**

The PHA may conduct interim reexaminations when families report an increase in income.

The PHA may, but is not required to, conduct an interim change.

## **Decreases in Income**

Participants may report a decrease in income and other changes that would reduce the amount of tenant rent, such as an increase in allowances or deductions. The PHA must calculate the change if a decrease in income is reported.

## **PHA Errors**

If the PHA makes a calculation error at admission to the program or at an annual reexamination, an interim reexamination will be conducted, if necessary, to correct the error, but the family will

not be charged retroactively. Families will be given decreases, when applicable, retroactive to when the decrease for the change would have been effective if calculated correctly.

**D. OTHER INTERIM REPORTING ISSUES**

An interim reexamination does not affect the date of the annual recertification.

If there is a change from benefit income to employment income, the PHA may defer the family's rent increase until the next annual recertification to encourage families to move to self-sufficiency.

This incentive will only be provided once to any family member.

If the family member leaves the job without good cause after six months and before twelve months, the rent will be calculated retroactively to include the employment income.

This incentive is not provided to persons who work seasonally.

In the following circumstances, the PHA may conduct the interim recertification by mail:

- Changes that will not result in a change in tenant rent or voucher size.
- Changes in income that are normal for the family, such as seasonal employment.
- As a reasonable accommodation when requested. (See "Statement of Policies and Objectives" chapter)

Any changes reported by participants other than those listed in this section will be noted in the file by the staff person but will not be processed between regularly-scheduled annual recertifications.

**E. INCOME CHANGES RESULTING FROM WELFARE PROGRAM REQUIREMENTS**

The PHA will not reduce the family share of rent for families whose welfare assistance is reduced specifically because of:

fraud; or

failure to participate in an economic self-sufficiency program; or

noncompliance with a work activities requirement

However, the PHA will reduce the rent if the welfare assistance reduction is a result of:

The expiration of a lifetime time limit on receiving benefits; or

A situation where the family has complied with welfare program requirements but cannot or has not obtained employment.

The PHA will notify affected families that they have the right to an informal hearing regarding these requirements.

(See "Verification Procedures" chapter.)

### **Cooperation Agreements**

The PHA cooperates with the local welfare agency to ensure timely and accurate verification of noncompliance.

The PHA has taken a proactive approach to culminating an effective working relationship between the PHA and the local welfare agency for the purpose of targeting economic self-sufficiency programs throughout the community that are available to Section 8 tenant-based assistance families.

The PHA and the local welfare agency have mutually agreed to exchange information regarding any economic self-sufficiency and/or other appropriate programs or services that would benefit Section 8 tenant-based assistance families.

### **F. NOTIFICATION OF RESULTS OF RECERTIFICATIONS** [HUD Notice PIH 98-6]

The HUD form 50058 will be completed and transmitted as required by HUD.

The Notice of Rent Change is mailed to the owner and the tenant. If the family disagrees with the rent adjustment, they may request an informal hearing.

### **G. TIMELY REPORTING OF CHANGES IN INCOME (AND ASSETS)** [24 CFR 982.516(c)]

#### **Standard for Timely Reporting of Changes**

If required by the PHA, families will report interim changes to the PHA within 10 days of when the change occurs. Any information, document or signature needed from the family that is needed to verify the change must be provided within 10 days of the change.

An exception will be made for TANF recipients who obtain employment. In such cases, families will have to report within 10 days of receipt of the Notice of Action from TANF that shows the full adjustment for employment income.

If the change is not reported within the required time period, or if the family fails to provide documentation or signatures, it will be considered untimely reporting.

#### **Procedures when the Change is Reported in a Timely Manner**

Refer to procedures in Chapter 7, Verification Procedures.

## **Procedures when the Change is Not Reported by the Family in a Timely Manner**

If the family does not report the change as described under Timely Reporting, the family will have caused an unreasonable delay in the interim reexamination processing and the following guidelines will apply:

Increase in Tenant Rent will be effective retroactive to the date it would have been effective had it been reported on a timely basis. The family will be liable for any overpaid housing assistance and may be required to sign a Repayment Agreement.

Decrease in Tenant Rent will be effective on the first of the month following the month that the change was reported.

## **Procedures when the Change is Not Processed by the PHA in a Timely Manner**

"Processed in a timely manner" means that the change goes into effect on the date it should when the family reports the change in a timely manner. If the change cannot be made effective on that date, the change is not processed by the PHA in a timely manner.

In this case, an increase will be effective after the required 30 days' notice prior to the first of the month after completion of processing by the PHA.

If the change resulted in a decrease, the overpayment by the family will be calculated retroactively to the date it should have been effective, and the family will be credited for the amount.

### **H. CHANGES IN VOUCHER SIZE AS A RESULT OF FAMILY COMPOSITION CHANGES** [24 CFR 982.516(c)]

(See "Subsidy Standards" chapter.)

### **I. CONTINUANCE OF ASSISTANCE FOR "MIXED" FAMILIES** [24 CFR 5.518]

Under the Non-citizens Rule, "Mixed" families are families that include at least one citizen or eligible immigrant and any number of ineligible members.

The Non-citizens Rule was implemented on or after November 29, 1996, and mixed families may receive prorated assistance only.

### **J. MISREPRESENTATION OF FAMILY CIRCUMSTANCES**

If any participant deliberately misrepresents the information on which eligibility or tenant rent is established, the PHA may terminate assistance and may refer the family file/record to the proper authorities for appropriate disposition. (See Program Integrity Addendum.)

## Chapter 21

### HOUSING CHOICE VOUCHER HOMEOWNERSHIP OPTION

#### **A. GENERAL PROVISIONS**

The Housing Choice Voucher Homeownership Program of the Housing Opportunities Commission of Montgomery County, Maryland ("HOC") offers eligible participants in the Housing Choice Voucher program, including participants with portable vouchers, the option of purchasing a home with their Housing Choice Voucher assistance rather than renting. This is a program, which is limited to up to twenty-five (25). As many as three (3) slots are designated for households meeting HUD definition of disabled.

Participants will be chosen through the Commission-approved random selection and screening process.

Eligible applicants for the Housing Choice Voucher homeownership program must be participants in the Housing Choice Voucher rental program, may not owe HOC or any other Housing Authority an outstanding debt (unless they are making regular payments on the debt), and must meet the eligibility criteria set forth herein.

Housing Choice Voucher homeownership assistance may be used to purchase a home within Montgomery County (excluding the city of Rockville). HOC also will permit portability of Housing Choice Voucher homeownership assistance to another jurisdiction, provided the receiving jurisdiction operates and has an opening in Housing Choice Voucher homeownership program for which the Housing Choice Voucher homeownership applicant qualifies.

#### **B. FAMILY ELIGIBILITY REQUIREMENTS**

Participation in the Housing Choice Voucher homeownership program is voluntary. Each Housing Choice Voucher homeownership applicant must meet the general requirements for admission to the Housing Choice Voucher program as set forth in HOC's Administrative Plan. Such Housing Choice Voucher family also must be "eligible" to participate in the homeownership program. The additional eligibility requirements for participation in HOC's Housing Choice Voucher homeownership program include that the family must: (1) be a first-time homeowner or have a member who is a person with disabilities; (2) with the exception of elderly and disabled households, meet a minimum income requirement without counting income from "welfare assistance" sources; (3) with the exception of elderly and disabled households, meet the requisite employment criteria; (4) be a current participant in the Housing Choice Voucher program; (5) have fully repaid any outstanding debt owed to HOC or any other Housing Authority (unless they are making regular payments); (6) not defaulted on a mortgage securing debt to purchase a home under the homeownership option; and (7) not have any member who has a present ownership interest in a residence at the commencement of homeownership assistance.



## 1. First-Time Homeowner.

Each Housing Choice Voucher family, except families with a disabled member, must be a first-time homeowner. A "first-time homeowner" means that no member of the household has had an ownership interest in any residence during the three years preceding commencement of home-ownership assistance. However, a single parent or displaced homemaker who, while married, owned a home with a spouse (or resided in a home owned by a spouse), and no longer owns the home, is considered a "first-time homeowner" for purposes of the Housing Choice Voucher homeownership option; and the right to purchase title to a residence under a lease-purchase agreement is not considered an "ownership interest."

## 2. Minimum Income Requirement.

### (a) Amount of Income.

At the time the family begins receiving homeownership assistance, the head of household, spouse, and/or other adult household members who will own the home must have a gross annual income of \$24,000.

### (b) Exclusion of Welfare Assistance Income.

With the exception of elderly and disabled families, HOC will disregard any "welfare assistance" income in determining whether the family meets the minimum income requirement. Welfare assistance includes assistance from Temporary Assistance for Needy Families ("TANF"), Supplemental Security Income ("SSI") that is subject to an income eligibility test, food stamps, general assistance, or other welfare assistance specified by HUD. The disregard of welfare assistance income under this section affects the determination of minimum monthly income in determining initial qualification for the homeownership program. It does not affect the determination of income-eligibility for admission to the Housing Choice Voucher program, calculation of the family's total tenant payment, or calculation of the amount of homeownership assistance payments.

## 3. Employment History.

With the exception of disabled and elderly households, each family must demonstrate that one or more adult members of the family who will own the home at commencement of homeownership assistance is employed full-time (an average of 30 hours per week) and has been so continuously employed for one year prior to execution of the sales agreement. In order to reasonably accommodate a family's enrollment in the program, HOC will exempt families that include a person with disabilities from this requirement. HOC's Executive Director may also consider whether and to

what extent an employment interruption is considered permissible in satisfying the employment requirement. The Executive Director may also consider successive employment during the one-year period and self-employment in a business.

4. Current Participant in Housing Choice Voucher Program.

Applicants for and new applicants and participants in the Housing Choice Voucher homeownership program must be current participants in the rental program and be in good standing with HOC.

5. Repayment of any Housing Authority Debts.

Applicants in the Housing Choice Voucher program shall be ineligible for participation in the Housing Choice Voucher homeownership program in the event any debt or portion of a debt remains owed to HOC or any other Housing Authority. Nothing in this provision will preclude Housing Choice Voucher participants that have fully repaid such debt(s) from applying for and participating in the Housing Choice Voucher homeownership program (unless they are making regular payments on the debt).

6. Additional Eligibility Factors.

(a) Elderly and Disabled Households.

Elderly and disabled families are exempt from the employment requirements set forth in Section B (3) above. In the case of an elderly or disabled family, HOC will consider income from all sources, including welfare assistance, in evaluating whether the household meets the minimum income required to purchase a home through the Housing Choice Voucher homeownership program.

(b) Participation in FSS Program.

In order to be selected for the homeownership program, all applicants, excluding those with disabilities, must have either successfully graduated from HOC's Family Self-Sufficiency (FSS) Program or be currently enrolled in HOC's FSS Program and completed two years of participation in HOC's Family Self Sufficiency ("FSS") Program prior to completion of homeownership counseling, and be in good standing with the FSS Program, in order to apply for and participate in

the homeownership program. Persons with disabilities must have completed one year of participation in HOC's Family Self Sufficiency ("FSS") Program.

(c) Prior Mortgage Defaults.

If a head of household, spouse, or other adult household member who will execute the contract of sale, mortgage and loan documents has previously defaulted on a mortgage obtained through the Housing Choice Voucher home- ownership program, the family will be ineligible to participate in the homeownership program.

## **C. FAMILY PARTICIPATION REQUIREMENTS**

Once a family is determined to be eligible to enroll in the program, it must comply with the following additional requirements: (1) complete a home- ownership counseling program approved by HOC prior to commencement of homeownership assistance; (2) within three years of completion of counseling, locate and contract for the home it proposes to purchase; (3) submit a sales agreement containing specific components to HOC for approval; (4) allow HOC to inspect the proposed homeownership dwelling to assure that the dwelling meets appropriate housing quality standards; (5) obtain an independent inspection covering major building systems; (6) obtain HOC approval of the proposed mortgage (which must comply with generally accepted mortgage underwriting requirements); and (7) enter into a written agreement with HOC to comply with all of its obligations under the Housing Choice Voucher program.

### 1. Homeownership Counseling Program.

A family's participation in the homeownership program is conditioned on the family attending and successfully completing a homeownership counseling program provided or approved by HOC prior to commencement of homeownership assistance. The homeownership and counseling program will include home maintenance; budgeting and money management; credit counseling; negotiating purchase price; securing mortgage financing; finding a home; and the advantages of purchasing and locating homes in areas that do not have a high concentration of low-income families. **HOC may permit a family to purchase a home without fulfilling pre-assistance homeownership counseling requirements. This temporary provision expires June 30, 2021 in accordance with the waiver flexibility authorized in PIH Notice2020-33.**

The counseling agency providing the counseling program shall be approved either by HUD and/or HOC, or the program shall be consistent with the homeownership counseling provided under HUD's Housing Counseling program. HOC may require families to participate in a HOC-approved homeownership counseling program on a continuing basis.

## 2. Locating and Purchasing a Home.

### (a) Locating a Home.

Upon approval for the Housing Choice Voucher home- ownership program and completion of counseling, a family shall have three years to settle on a home to purchase. A home shall be considered located if the family submits a signed sales agreement with the requisite components to HOC. During a Housing Choice Voucher participant's search for a home to purchase, the Housing Choice Voucher rental assistance shall continue pursuant to the Administrative Plan. If a Housing Choice Voucher participant family is unable to locate a home within the time approved by HOC, their Housing Choice Voucher rental assistance through the Housing Choice Voucher program shall continue.

### (b) Type of Home.

A family approved for Housing Choice Voucher homeownership assistance may purchase the following type of homes within Montgomery County: a new or existing home with a purchase price at or below the FNMA/FHLMC Single Family Loan Limits, a single-family home, a condominium, a home in a planned use development, a cooperative, a loft or live/work unit, or a manufactured home to be situated on a privately owned lot or on a leased pad in a mobile home park. The home must already exist or be under construction at the time HOC determines the family eligible for homeownership assistance to purchase the unit. The family also may purchase a home in a jurisdiction other than Montgomery County, provided the Housing Authority in the receiving jurisdiction operates a Housing Choice Voucher homeownership program for which the Housing Choice Voucher homeownership applicant qualifies. In such a case, a family's participation in the Housing Choice Voucher homeownership program will be subject to the Housing Choice Voucher homeownership program and policies of the receiving jurisdiction.

### (c) Purchasing a Home.

Once a home is located and a sales agreement approved by HOC is signed by the family, the family shall have up to three (3) months, or such other time as is approved by HOC's Executive Director or set forth in the HOC-approved sales agreement, to purchase the home.

### (d) Failure to Complete Purchase.

If a Housing Choice Voucher participant is unable to purchase the home within the maximum time permitted by HOC, HOC shall terminate the participant's enrollment in the home- ownership program. The family may

not re-apply for the Housing Choice Voucher homeownership program until they have completed two additional years of participation in the Housing Choice Voucher program following the initial determination of their eligibility for the homeownership option.

(e) Lease-Purchase

Lease-purchase agreements are not permitted.

(f) Down Payment

The family must meet a minimum homeowner down payment requirement of at least three percent of the purchase price for participation in the Voucher homeownership program. At least one percent of the purchase price must come from the family's personal resources.

3. Sales Agreement.

Prior to execution of the offer to purchase or sales agreement, the financing terms must be provided by the family to HOC for approval. The sales agreement must provide for inspection by HOC and the independent inspection referred to in Section C(4) and must state that the purchaser is not obligated to purchase unless such inspections are satisfactory to HOC. The contract also must provide that the purchaser is not obligated to pay for any necessary repairs. The sales agreement must provide that the purchaser is not obligated to purchase if the mortgage financing terms are not approved by HOC pursuant to Section C(6). The sales agreement must also contain a seller certification that the seller is not debarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

4. Independent Initial Inspection Conducted.

To assure the home complies with the housing quality standards of the Housing Choice Voucher program, homeownership assistance payments may not commence until HOC first inspects the home. An independent inspection of existing homes covering major building systems also must be completed by a professional selected by the family and approved by HOC. HOC will not pay for the independent inspection. The independent inspection report must be provided to HOC. HOC may disapprove the unit due to information contained in the report or for failure to meet federal housing quality standards. **Through June 30, 2021 HOC may waive the initial homeownership inspection requirement. This temporary policy is in accordance with the waiver flexibility authorized in PIH Notice 2020-33.**

5. Financing Requirements.

The proposed financing terms must be submitted to and approved by HOC prior to close of escrow. HOC will approve or disapprove the financing terms within five (5) business days. HOC shall determine the affordability of the family's proposed financing. In making such determination, HOC may take into account

other family expenses, including but not limited to child care, unreimbursed medical expenses, education and training expenses and the like. Certain types of financing, including but not limited to, balloon payment mortgages and adjustable rate mortgages, are prohibited and will not be approved by HOC. Seller-financing mortgages shall be considered by HOC on a case by case basis. If a mortgage is not FHA-insured, HOC will require the lender to comply with generally accepted mortgage underwriting standards consistent with those of HUD/ FHA, Ginnie Mae, Fannie Mae, Freddie Mac, the Federal Home Loan Bank of Atlanta, or other private lending institution.

A second trust for closing costs is permitted.

#### 6. Family Compliance with Program Policies.

A family must agree, in writing, to comply with all family obligations under the Housing Choice Voucher program and HOC's homeownership policies. These obligations include (1) attending ongoing home- ownership counseling, if required by HOC; (2) complying with the mortgage terms; (3) not selling or transferring the home to anyone other than a member of the assisted family who resides in the home while receiving homeownership assistance; (4) not refinancing or adding debt secured by the home without prior approval by HOC; (5) not obtaining a present ownership interest in another residence while receiving home- ownership assistance; and (6) supplying all required information to HOC including, but not limited to, annual verification of household income, notice of change in homeownership expenses, notice of move-out, and notice of mortgage default. HOC's Homeownership Family Obligation policies are set forth in Appendix A. Once the home purchase is complete, the family becomes a participant in the HCV homeownership program.

### **D. AMOUNT OF ASSISTANCE**

The amount of the monthly assistance payment will be based on three factors: the voucher payment standard for which the family is eligible, the monthly home- ownership expenses, and the family's household income. HOC will pay the lower of either the payment standard minus the total family contribution ("TFC") or the family's monthly homeownership expenses minus the TFC. The Housing Choice Voucher family will pay the difference.

#### 1. Determining the Payment Standard.

The voucher payment standard is the fixed dollar amount the HOC annually establishes for a unit of a particular size located within the HOC jurisdiction. In the homeownership program, the initial payment standard will be the lower of either (1) the payment standard for which the family is eligible based on family size, or (2) the payment standard which is applicable to the size of the home the

family decides to purchase. The payment standard for subsequent years will be based on the higher of: (1) the payment standard in effect at commencement of the homeownership assistance, or (2) the payment standard in effect at the most recent regular reexamination of the family's income and size. The initial payment standard, for purposes of this comparison, shall not be adjusted even if there is a subsequent decrease in family size.

Exception rents, if in effect for the Housing Choice Voucher rental program, will also apply to the homeownership program.

## 2. Determining the Monthly Homeownership Expense.

Monthly homeownership expense includes all of the following: principal and interest on the initial mortgage and any mortgage insurance premium (MIP) incurred to finance the purchase and any refinancing of such debt; real estate taxes and public assessments; homeowner's insurance; maintenance expenses per HOC allowance; costs of major repairs and replacements per HOC allowance (replacement reserves); utility allowance per HOC's schedule of utility allowances; principal and interest on mortgage debt incurred to finance major repairs, replacements or improvements for the home including changes needed to make the home accessible; and homeowner association dues, fees or regular charges assessed, if any. Homeownership expenses for a cooperative member may only include HOC approved amounts for the cooperative charge under the cooperative occupancy agreement including payment for real estate taxes and public assessments on the home; principal and interest on initial debt incurred to finance purchase of cooperative membership shares and any refinancing of such debt; home insurance; the allowances for maintenance expenses, major repairs and replacements and utilities; and principal and interest on debt incurred to finance major repairs, replacements, or improvements, including changes needed to make the home accessible.

## 3. Determining the Total Family Contribution

The TFC is that portion of the homeownership expense that the family must pay. It is generally 30% of the family's adjusted income plus any gap between the payment standard and the actual housing cost. All family income (including public assistance) will be counted to determine the family's adjusted monthly income for purposes of determining the amount of assistance.

## 4. Payment to Family or Lender.

HOC will provide the lender with notice of the amount of the housing assistance payment prior to close of escrow and will pay HOC's contribution towards the family's homeowner expense directly to the family unless otherwise required by the lender. The family will be responsible to submit the entire mortgage payment to the lender unless the lender requires direct payment of HOC's contribution.



## ASSISTANCE

### 1. Grounds for Termination of Homeownership Assistance.

#### E. TERMINATION OF HOUSING CHOICE VOUCHER HOMEOWNERSHIP

- (a) Failure to Comply with Family Obligations under Housing Choice Voucher Program or HOC's Homeownership Policies.

A family's homeownership assistance may be terminated if the family fails to comply with its obligations under the Housing Choice Voucher program, HOC homeownership policies, or if the family defaults on the mortgage. If required, the family must attend and complete ongoing homeownership and housing counseling classes. The family must comply with the terms of any mortgage incurred to purchase and/or refinance the home. The family must provide HOC with written notice of any sale or transfer of any interest in the home, any plan to move out of the home prior to the move, the family's household income and homeownership expenses on an annual basis, any notice of mortgage default received by the family, and any other notices which may be required pursuant to HOC homeownership policies. Except as otherwise provided in this Section, the family may not convey or transfer the home to any entity or person other than a member of the assisted family while receiving homeownership assistance.

- (b) Occupancy of Home.

Homeownership assistance will only be provided while the family resides in the home. If the family moves out of the home, HOC will not continue homeownership assistance commencing with the month after the family moves out. Neither the family nor the lender is obligated to reimburse HOC for homeownership assistance paid for the month the family moves out. **HOC may extend the maximum term of home ownership assistance for 1 year if the family is in the last year of the term and is experiencing financial hardship as a result of the COVID-19 Pandemic. This temporary policy is in accordance with the waiver flexibility authorized in PIH Notice 2020-13.**

- (c) Changes in Income Eligibility.

A family's homeownership assistance may be changed in the month following annual recertification of the household income, but participation in the Housing Choice Voucher Homeownership program shall continue until such time as the assistance payment amounts to \$0 for a period of six (6) consecutive months.

- (d) Maximum Term of Homeownership Assistance.



Notwithstanding the provisions of Section E(1), subparagraphs (a) through (c), except for disabled and elderly families, a family may receive Housing Choice Voucher homeownership assistance for not longer than ten (10) years from the date of close of escrow unless the initial mortgage incurred to finance purchase of the home has a term that is 20 years or longer, in which case the maximum term is 15 years. Families that qualify as elderly at the commencement of homeownership assistance are not subject to a maximum term limitation. Families that qualify as disabled families at the commencement of homeownership assistance or at any time during the provision of homeownership assistance are not subject to a maximum term limitation. If a disabled family or elderly family ceases to qualify as disabled or elderly, the appropriate maximum term becomes applicable from the date homeownership assistance commenced provided, however, that such family shall be eligible for at least six additional months of homeownership assistance after the maximum term becomes applicable. The time limit applies to any member of the household who has an ownership interest in the unit during any time that homeownership payments are made or is a spouse of any member of the household who has an ownership interest.

## 2. Procedure for Termination of Homeownership Assistance.

A participant in the Housing Choice Voucher Homeownership program is a family who has purchased a home in this program. Participants shall be entitled to the same termination notice and informal hearing procedures as set forth in the Administrative Plan of the HOC for the Housing Choice Voucher program.

## **F. CONTINUED PARTICIPATION IN HOUSING CHOICE VOUCHER PROGRAM**

### 1. Default on FHA-Insured Mortgage.

If the family defaults on an FHA-insured mortgage, HOC may permit the family to move with continued Housing Choice Voucher rental assistance if the family demonstrates that it has (a) conveyed title to the home to HUD or its designee as required by HUD, and (b) moved from the home within the period established or approved by HUD.

### 2. Default on non-FHA-Insured Mortgage.

If the family defaults on a mortgage that is not FHA-insured, HOC may permit the family to move with continued Housing Choice Voucher rental assistance if the family demonstrates that it has (a) conveyed title to the home to the lender, to HOC or to its designee, as may be permitted or required by the lender; and (b)

moved from the home within the period established or approved by the lender and/or HOC.

3. Continued Housing Choice Voucher Rental Assistance

HOC will determine on a case-by-case basis, in compliance with federal law and regulations, if a family terminated from the home- ownership program will remain eligible Housing Choice Voucher rental assistance.

**G. HOC ADMINISTRATIVE FEE**

For each month that homeownership assistance is paid by HOC on behalf of the family, HOC shall be paid the ongoing administrative fee described in 24 C.F.R. §982.152(b).

**H. WAIVER OR MODIFICATION OF HOMEOWNERSHIP POLICIES**

The Executive Director of HOC shall have the discretion to waive or modify any provision of the Housing Choice Voucher homeownership program or policies not governed by statute or regulation for good cause or to comply with changes in HUD regulations or directives.

**APPENDIX A: HOUSING CHOICE VOUCHER HOMEOWNERSHIP OBLIGATIONS**

This form is to be signed by the home buyer(s) in the presence of the Housing Opportunities Commission's (HOC) Homeownership Program Coordinator. The Coordinator will explain any and all clauses which you, the home buyer(s), may not understand.

The following paragraphs describe your responsibilities under the Housing Choice Voucher Homeownership Program. If you or members of your household do not meet these responsibilities through your actions or your failure to act, you may be determined ineligible for or terminated from the Housing Choice Voucher Homeownership Program.

1. Family Obligations: You must comply with all Family Obligations of the Housing Choice Voucher Program, excepting only the prohibition against owning or having an interest in the unit. Family Obligations §§ 982.551(c),(d),(e),(f),(g) and (j) do not apply to the Housing Choice Voucher Homeownership Program.

2. Housing Counseling: All applicant family members (i.e. those who will be signing the purchase offer and loan documents) must satisfactorily complete a HOC provided or approved counseling program prior to commencement of homeownership assistance. HOC may require any or all applicant family members to attend additional housing counseling classes as a condition of continued assistance.

3. **Employment History:** With the exception of disabled and elderly households, each family must demonstrate that one or more adult members of the family who will own the home at commencement of homeownership assistance is employed full-time( an average of 30 hours per week) and has been so continuously employed for one year prior to execution of the sales agreement. In order to reasonably accommodate a family enrollment in the program, HOC will exempt families that include a person with disabilities from this requirement. HOC's Executive Director may also consider whether and to what extent an employment interruption is considered permissible in satisfying the employment requirement. The Executive Director may also consider successive employment during the one-year period and self-employment in a business.
4. **Purchase Contract:** You must include contract conditions in any Offer to Purchase that give HOC a reasonable time (a) to inspect the home for compliance with HUD's Housing Quality Standards, (b) to review and approve a professional home inspection report obtained by you from a HOC approved inspector, and (c) approve the terms of your proposed financing. Advise your real estate broker, agent or Realtor of these requirements. You must settle on a home within three years of completion of home ownership counseling.
5. **Mortgage Obligations:** You must comply with the terms of any mortgage incurred in the purchase of the property and must notify HOC's Homeownership Program Counselor within five (5) days of receipt of any late payment notice or default notice.
6. **Occupancy:** You must occupy the unit as your principal residence. You may not transfer, sell, or assign any interest in the property without HOC's prior written consent. You may not rent or lease any part of the premises without HOC's prior written consent. You must notify HOC in writing at least 30 days prior to moving out of the house for a period of 30 days or longer or prior to any sale, transfer, assignment, lease or other form of alienation of the assisted property.
7. **Maintenance:** You must maintain the property in a decent, safe and sanitary manner in compliance with County codes and other prevailing standards. You must allow HOC to inspect the property within one-week of a demand by HOC to conduct an inspection. You must correct any notice of deficiency issued by HOC within the time limit specified in the notice. If you fail to adequately maintain the property, HOC may divert the maintenance and replacement reserves portions, if applicable, of the Homeownership Assistance Payment to an escrow account to be used to pay for reasonable and necessary maintenance expenses.
8. **Annual Re-examination:** You must annually provide HOC with current information regarding family income and composition in a format required by HOC.
9. **Refinancing:** You must notify HOC in writing of any proposal to refinance the original purchase mortgage or of any proposal to encumber the property with secondary financing and obtain HOC's written approval of such financing prior to executing any loan documents.
10. **Default:** In the event of a default on your mortgage obligation, you must cooperate with HOC and the lender to minimize any loss to the lender in order to maintain your eligibility to continue as a participant in the Housing Choice Voucher Program.

By signing below, I attest that I have read and understand my obligations as an applicant and a participant in the Housing Choice Voucher Homeownership Program and I agree to abide by these responsibilities. I understand that HOC may determine me ineligible for homeownership assistance if I violate my obligations after the purchase of a home, but that I may request an informal hearing of any notice of termination prior to it becoming effective.

## 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 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. 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 families or families eligible to receive 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 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 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 June 30, 2021. This temporary policy expires on June 30, 2021 in accordance with the waiver flexibility authorized in PIH Notice 2020-33.

## **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.

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]

The following items are incorporated into both the Section 8 Administrative Plan and the Project 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. 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).
- iv. 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

- d. 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 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.



**Attachment I: Summary of Public Housing and HCV Waivers and Alternative Requirements  
(Refer back to the Notice using the item code for a full description and more detailed information.)**

**This chart summarizes the waivers authorized under this Notice and the availability period for each. As stated in Section 5, PHAs must keep written documentation on the waivers applied by the PHA as well as the effective dates. To fulfill those requirements, PHAs may but are not required to utilize the last two columns to record this information.**

| Item  | Statutory and regulatory waivers   | Summary of alternative requirements   | Availability Period Ends   | Did the PHA implement the waiver or alternative requirement? | Date of PHA adoption. |
|---|--|---|--|--|-----------------------|
| PH and HCV-1<br>PHA 5-Year and Annual Plan Submission Dates: Significant Amendment Requirements | <u>Statutory Authority</u><br>Section 5A(a)(1), Section 5A(b)(1), Section 5A(g), Section 5A(h)(2)<br><br><u>Regulatory Authority</u><br>§§ 903.5(a)(3), 903.5(b)(3), 903.13(c), 903.21, 903.23 | <ul style="list-style-type: none"> <li>Alternative dates for submission</li> <li>Changes to significant amendment process</li> </ul>  | <ul style="list-style-type: none"> <li>Varies based on FYE</li> <li>12/31/20</li> </ul>  | <b>NO</b>  |                       |
| PH and HCV-2<br>Family Income and Composition: Delayed Annual Examinations                      | <u>Statutory Authority</u><br>Section 3(a)(1)<br><br><u>Regulatory Authority</u><br>§§ 982.516(a)(1), 960.257(a)   | <ul style="list-style-type: none"> <li>Permits the PHA to delay the annual reexamination of income and family composition</li> <li>HCV PHAs must implement HCV-7 for impacted families if they implement this waiver</li> </ul> | <ul style="list-style-type: none"> <li>6/30/21</li> </ul> All reexams due in CY20 must be completed by 12/31/20. Reexams due between 1/1/21 and 6/30/21 would need to be completed by 6/30/21. | <b>Yes</b>   | <b>4/20/2020</b>      |



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| Item  | Statutory and regulatory waivers   | Summary of alternative requirements   | Availability Period Ends                                    | Did the PHA implement the waiver or alternative requirement? | Date of PHA adoption. |
|---|--|---|---|--|-----------------------|
| PH and HCV-3<br>Family Income and Composition: Annual Examination; Income Verification Requirements | <u>Regulatory Authority</u><br>§§ 5.233(a)(2), 960.259(c), 982.516(a)<br><br><u>Sub-regulatory Guidance</u><br>Notice PIH 2018-18  | <ul style="list-style-type: none"> <li>• Waives the requirements to use the income hierarchy, including the use of EIV, and will allow PHAs to consider self-certification as the highest form of income verification</li> <li>• PHAs that implement this waiver will be responsible for addressing material income discrepancies that may arise later</li> </ul> | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | Yes  | 4/20/2020             |
| PH and HCV-4<br>Family Income and Composition: Interim Examinations                                 | <u>Statutory Authority</u><br>Section 3(a)(1)<br><br><u>Regulatory Authority</u><br>§§ 5.233(a)(2), 982.516(c)(2), 960.257(a), (b) and (d), 960.259(c)<br><br><u>Sub-regulatory Guidance</u><br>Notice PIH 2018-18 | <ul style="list-style-type: none"> <li>• Waives the requirement to use the income verification requirements, including the use of EIV, for interim reexaminations</li> </ul>  | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | Yes  | 4/20/2020             |

**Attachment I: Summary of Public Housing and HCV Waivers and Alternative Requirements  
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| Item  | Statutory and regulatory waivers   | Summary of alternative requirements   | Availability Period Ends                                    | Did the PHA implement the waiver or alternative requirement? | Date of PHA adoption. |
|---|--|---|---|--|-----------------------|
| PH and HCV-5<br>Enterprise Income Verification (EIV) Monitoring                             | <u>Regulatory Authority</u><br>§ 5.233<br><br><u>Sub-regulatory Guidance</u><br>Notice PIH 2018-18         | <ul style="list-style-type: none"> <li>• Waives the mandatory EIV monitoring requirements</li> </ul>  | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | Yes  | 4/20/2020             |
| PH and HCV-6<br>Family Self-Sufficiency (FSS) Contract of Participation: Contract Extension | <u>Regulatory Authority</u><br>§ 984.303(d)  | <ul style="list-style-type: none"> <li>• Provides for extensions to FSS contract of participation</li> </ul>  | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | Yes  | 4/20/2020             |
| PH and HCV-7<br>Waiting List: Opening and Closing; Public Notice                            | <u>Regulatory Authority</u><br>§ 982.206(a)(2)<br><br><u>Sub-regulatory Guidance</u><br>Notice PIH 2012-34 | <ul style="list-style-type: none"> <li>• Waives public notice requirements for opening and closing waiting list</li> <li>• Requires alternative process</li> </ul>            | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | NO   |                       |
| HQS-1<br>Initial Inspection Requirements  | <u>Statutory Authority</u><br>Section 8(o)(8)(A)(i),<br>Section 8(o)(8)(C)                                 | <ul style="list-style-type: none"> <li>• Changes initial inspection requirements, allowing for owner certification that there are no life-threatening deficiencies</li> </ul> | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | Yes  | 4/20/2020             |

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| Item   | Statutory and regulatory waivers  | Summary of alternative requirements   | Availability Period Ends   | Did the PHA implement the waiver or alternative requirement? | Date of PHA adoption.                               |
|--|---|---|--|--|---|
|  | <u>Regulatory Authority</u><br>§§ 982.305(a), 982.305(b), 982.405   | <ul style="list-style-type: none"> <li>Where self-certification was used, PHA must inspect the unit no later than 1-year anniversary of date of owner’s certification</li> <li>Will include reminder that HQS waiver does not include a waiver of 24 CFR 35.15, visual assessment for deteriorated paint</li> </ul> | <ul style="list-style-type: none"> <li>1-year anniversary of date of owner’s certification</li> </ul>                  |  |   |
| HQS-2: Project-Based Voucher (PBV) Pre-HAP Contract Inspections: PHA Acceptance of Completed Units | <u>Statutory Authority:</u><br>Section 8(o)(8)(A)<br><br><u>Regulatory Authority:</u><br>§§ 983.103(b), 983.156(a)(1) | <ul style="list-style-type: none"> <li>Changes inspection requirements, allowing for owner certification that there are no life-threatening deficiencies</li> <li>Where self-certification was used, PHA must inspect the unit no later than 1-year anniversary of date of owner’s certification</li> </ul>         | <ul style="list-style-type: none"> <li>6/30/21</li> <li>1-year anniversary of date of owner’s certification</li> </ul> | <p style="text-align: center;"><b>Yes</b></p>                | <p style="text-align: center;"><b>4/20/2020</b></p> |

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| Item   | Statutory and regulatory waivers  | Summary of alternative requirements  | Availability Period Ends   | Did the PHA implement the waiver or alternative requirement? | Date of PHA adoption. |
|--|---|--|--|--|-----------------------|
| HQS-3<br>Initial Inspection:<br>Non-Life-Threatening<br>Deficiencies (NLT)<br>Option | <u>Statutory Authority</u><br>Section 8(o)(8)(A)(ii)<br><br><u>Sub-regulatory Guidance</u><br>HOTMA HCV Federal<br>Register Notice January 18,<br>2017  | <ul style="list-style-type: none"> <li>Allows for extension of up to 30 days for owner repairs of non-life threatening conditions</li> </ul>   | <ul style="list-style-type: none"> <li>6/30/21</li> </ul>  | Yes  | 4/20/2020             |
| HQS-4<br>HQS Initial Inspection<br>Requirement:<br>Alternative Inspection<br>Option  | <u>Statutory Authority</u><br>Section 8(o)(8)(A)(iii)<br><br><u>Sub-regulatory Guidance</u><br>HOTMA HCV Federal<br>Register Notice January 18,<br>2017 | <ul style="list-style-type: none"> <li>Under Initial HQS Alternative Inspection Option - allows for commencement of assistance payments based on owner certification there are no life-threatening deficiencies</li> <li>Where self-certification was used, PHA must inspect the unit no later than 1-year anniversary of date of owner's certification</li> </ul> | <ul style="list-style-type: none"> <li>6/30/21</li> <li>1-year anniversary of date of owner's certification</li> </ul> | Yes  | 4/20/2020             |

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| Item  | Statutory and regulatory waivers   | Summary of alternative requirements  | Availability Period Ends  | Did the PHA implement the waiver or alternative requirement? | Date of PHA adoption. |
|---|--|--|---|--|-----------------------|
| HQS-5<br>HQS Inspection Requirement: Biennial Inspections | <u>Statutory Authority</u><br>Section 8(o)(D)<br><br><u>Regulatory Authority</u><br>§§ 982.405(a), 983.103(d)    | <ul style="list-style-type: none"> <li>• Allows for delay in biennial inspections</li> <li>• PHAs must require owner certification there are no life-threatening deficiencies</li> <li>• All delayed biennial inspections must resume by 6/30/21 and be completed by 12/31/21</li> </ul> | <ul style="list-style-type: none"> <li>• 6/30/21</li> <li>• 12/31/21</li> </ul> | <b>NO</b>  |                       |
| HQS-6<br>HQS Interim Inspections                          | <u>Statutory Authority</u><br>Section 8(o)(8)(F)<br><br><u>Regulatory Authority</u><br>§§ 982.405(g), 983.103(e) | <ul style="list-style-type: none"> <li>• Waives the requirement for the PHA to conduct interim inspection and requires alternative method</li> <li>• Allows for repairs to be verified by alternative methods</li> </ul>   | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul>                     | <b>Yes</b>   | <b>4/20/2020</b>      |
| HQS-7<br>PBV Turnover Unit Inspections                    | <u>Regulatory Authority</u><br>§ 983.103(c)  | <ul style="list-style-type: none"> <li>• Allows PBV turnover units to be filled based on owner certification there are no life-threatening deficiencies</li> </ul>   | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul>                     | <b>Yes</b>   | <b>4/20/2020</b>      |

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| Item   | Statutory and regulatory waivers   | Summary of alternative requirements   | Availability Period Ends   | Did the PHA implement the waiver or alternative requirement? | Date of PHA adoption.   |
|--|--|---|--|--|-------------------------|
|  |  | <ul style="list-style-type: none"> <li>Allows for delayed full HQS inspection NLT than 1-year anniversary of date of owner's certification</li> </ul>   | <ul style="list-style-type: none"> <li>1-year anniversary of date of owner's certification</li> </ul>                  |  |                         |
| <p>HQS-8: PBV HAP Contract: HQS Inspections to Add or Substitute Units</p> | <p><u>Statutory Authority</u><br/>Section 8(o)(8)(A)</p> <p><u>Regulatory Authority</u><br/>§§ 983.207(a), 983.207(b)</p> <p><u>Sub-regulatory Guidance</u><br/>HOTMA HCV Federal Register Notice January 18, 2017</p> | <ul style="list-style-type: none"> <li>Allows for PBV units to be added or substituted in the HAP contract based on owner certification there are no life-threatening deficiencies</li> <li>Allows for delayed full HQS inspection NLT 1-year anniversary of date of owner's certification</li> </ul> | <ul style="list-style-type: none"> <li>6/30/21</li> <li>1-year anniversary of date of owner's certification</li> </ul> | <p><b>Yes</b></p>  | <p><b>4/20/2020</b></p> |
| <p>HQS-9<br/>HQS Quality Control Inspections</p>                           | <p><u>Regulatory Authority</u><br/>§§ 982.405(b), 983.103(e)(3)</p>  | <ul style="list-style-type: none"> <li>Provides for a suspension of the requirement for QC sampling inspections</li> </ul>  | <ul style="list-style-type: none"> <li>6/30/21</li> </ul>  | <p><b>Yes</b></p>  | <p><b>4/20/2020</b></p> |

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| Item  | Statutory and regulatory waivers  | Summary of alternative requirements   | Availability Period Ends   | Did the PHA implement the waiver or alternative requirement? | Date of PHA adoption. |
|---|---|---|--|--|-----------------------|
| HQS-10<br>Housing Quality Standards: Space and Security | <u>Regulatory Authority</u><br>§ 982.401(d)   | <ul style="list-style-type: none"> <li>• Waives the requirement that each dwelling unit have at least 1 bedroom or living/sleeping room for each 2 persons.</li> </ul>  | Remains in effect one year from lease term or date of this Notice, whichever is longer | <b>NO</b>  |                       |
| HQS-11<br>Homeownership Option: Initial HQS Inspection  | <u>Statutory Authority</u><br>Section 8(o)(8)(A)(i),<br>Section 8(y)(3)(B)<br><u>Regulatory Authority</u><br>§ 982.631(a) | <ul style="list-style-type: none"> <li>• Waives the requirement to perform an initial HQS inspection in order to begin making homeownership assistance payments</li> <li>• Requires family to obtain independent professional inspection</li> </ul> | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul>                            | <b>Yes</b>   | <b>4/20/2020</b>      |
| HCV-1<br>Administrative Plan                            | <u>Regulatory Authority</u><br>§ 982.54(a)  | <ul style="list-style-type: none"> <li>• Establishes an alternative requirement that policies may be adopted without board approval until 3/31/21</li> <li>• Any provisions adopted informally must be adopted formally by 6/30/21</li> </ul>       | <ul style="list-style-type: none"> <li>• 3/31/21</li> <li>• 6/30/21</li> </ul>         | <b>Yes</b>   | <b>7/20/2020</b>      |

**Attachment I: Summary of Public Housing and HCV Waivers and Alternative Requirements  
(Refer back to the Notice using the item code for a full description and more detailed information.)**

| Item  | Statutory and regulatory waivers                               | Summary of alternative requirements   | Availability Period Ends                                    | Did the PHA implement the waiver or alternative requirement? | Date of PHA adoption. |
|---|--|---|---|--|-----------------------|
| HCV-2<br>Information When Family is Selected:<br>PHA Oral Briefing          | <u>Regulatory Authority</u><br>§§ 982.301(a)(1),<br>983.252(a) | <ul style="list-style-type: none"> <li>• Waives the requirement for an oral briefing</li> <li>• Provides for alternative methods to conduct required voucher briefing</li> </ul>                | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | Yes  | 4/20/2020             |
| HCV-3<br>Term of Voucher:<br>Extensions of Term                             | <u>Regulatory Authority</u><br>§ 982.303(b)(1)                 | <ul style="list-style-type: none"> <li>• Allows PHAs to provide voucher extensions regardless of current PHA policy</li> </ul>  | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | Yes  | 4/20/2020             |
| HCV-4<br>PHA Approval of Assisted Tenancy:<br>When HAP Contract is Executed | <u>Regulatory Authority</u><br>§ 982.305(c)                    | <ul style="list-style-type: none"> <li>• Provides for HAP payments for contracts not executed within 60 days</li> <li>• PHA must not pay HAP to owner until HAP contract is executed</li> </ul> | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | Yes  | 4/20/2020             |
| HCV-5<br>Absence from Unit  | <u>Regulatory Authority</u><br>§ 982.312                       | <ul style="list-style-type: none"> <li>• Allows for PHA discretion on absences from units longer than 180 days</li> <li>• PHAs must not make HAP payments beyond</li> </ul>                     | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | Yes  | 4/20/2020             |



**Attachment I: Summary of Public Housing and HCV Waivers and Alternative Requirements  
(Refer back to the Notice using the item code for a full description and more detailed information.)**

| Item  | Statutory and regulatory waivers               | Summary of alternative requirements   | Availability Period Ends                                  | Did the PHA implement the waiver or alternative requirement? | Date of PHA adoption. |
|---|--|---|---|--|-----------------------|
|   |  | 12/31/20 for units vacant more than 180 consecutive days  |   |  |                       |
| HCV-6<br>Automatic Termination of HAP Contract                    | <u>Regulatory Authority</u><br>§ 982.455       | <ul style="list-style-type: none"> <li>Allows PHA to extend the period of time after the last HAP payment is made before the HAP contract terminates automatically.</li> </ul>  | <ul style="list-style-type: none"> <li>6/30/21</li> </ul> | Yes  | 4/20/2020             |
| HCV-7<br>Increase in Payment Standard During HAP Contract Term    | <u>Regulatory Authority</u><br>§ 982.505(c)(4) | <ul style="list-style-type: none"> <li>Provides PHAs with the option to increase the payment standard for the family at any time after the effective date of the increase, rather than waiting for the next regular reexamination.</li> </ul> | <ul style="list-style-type: none"> <li>6/30/21</li> </ul> | Yes  | 4/20/2020             |
| HCV-8<br>Utility Allowance Schedule: Required Review and Revision | <u>Regulatory Authority</u><br>§ 982.517       | <ul style="list-style-type: none"> <li>Provides for delay in updating utility allowance schedule</li> </ul>   | <ul style="list-style-type: none"> <li>6/30/21</li> </ul> | NO   |                       |

**Attachment I: Summary of Public Housing and HCV Waivers and Alternative Requirements  
(Refer back to the Notice using the item code for a full description and more detailed information.)**

| Item  | Statutory and regulatory waivers  | Summary of alternative requirements   | Availability Period Ends                                    | Did the PHA implement the waiver or alternative requirement? | Date of PHA adoption.                               |
|---|---|---|---|--|---|
| HCV-9<br>Homeownership Option:<br>Homeownership Counseling                                  | <u>Statutory Authority</u><br>Section 8(y)(1)(D)<br><br><u>Regulatory Authority</u><br>§§ 982.630, 982.636(d) | <ul style="list-style-type: none"> <li>• Waives the requirement for the family to obtain pre-assistance counseling</li> </ul>   | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | <p style="text-align: center;"><b>Yes</b></p>                | <p style="text-align: center;"><b>4/20/2020</b></p> |
| HCV-10<br>Family Unification Program (FUP): FUP Youth Age Eligibility to Enter HAP Contract | <u>Statutory Authority</u><br>Section 8(x)(2)   | <ul style="list-style-type: none"> <li>• Allows PHAs to increase age to 26 for foster youth initial lease up</li> </ul>   | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | <p style="text-align: center;"><b>Yes</b></p>                | <p style="text-align: center;"><b>4/20/2020</b></p> |
| HCV-11<br>Family Unification Program (FUP): Length of Assistance for Youth                  | <u>Statutory Authority</u><br>Section 8(x)(2)   | <ul style="list-style-type: none"> <li>• Allows PHAs to suspend terminations of assistance for FUP youth who will reach the 36-month limit between April 10, 2020, and December 31, 2020</li> </ul> | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | <p style="text-align: center;"><b>No</b></p>                 |   |
| HCV-12<br>Family Unification Program (FUP): Timeframe for Referral                          | <u>Statutory Authority</u><br>Section 8(x)(2)   | <ul style="list-style-type: none"> <li>• Allows PHAs to accept referrals of otherwise eligible youth who will leave foster care within 120 days</li> </ul>  | <ul style="list-style-type: none"> <li>• 6/30/21</li> </ul> | <p style="text-align: center;"><b>Yes</b></p>                | <p style="text-align: center;"><b>7/20/2020</b></p> |

**Attachment I: Summary of Public Housing and HCV Waivers and Alternative Requirements  
(Refer back to the Notice using the item code for a full description and more detailed information.)**

| Item  | Statutory and regulatory waivers                      | Summary of alternative requirements  | Availability Period Ends                                  | Did the PHA implement the waiver or alternative requirement? | Date of PHA adoption. |
|---|---|--|---|--|-----------------------|
| HCV-13<br>Homeownership:<br>Maximum Term of Assistance    | <u>Regulatory Authority</u><br>§ 982.634(a)           | <ul style="list-style-type: none"> <li>Allows a PHA to extend homeownership assistance for up to 1 additional year</li> </ul>  | <ul style="list-style-type: none"> <li>6/30/21</li> </ul> | Yes  | 7/20/2020             |
| HCV-14<br>Mandatory Removal of Unit from PBV HAP Contract | <u>Regulatory Authority</u><br>§§ 983.211(a); 983.258 | <ul style="list-style-type: none"> <li>Allows a PHA to keep a PBV unit under contract for a period of time that extends beyond 180 from the last HAP but does not extend beyond December 31, 2020</li> </ul> | <ul style="list-style-type: none"> <li>6/30/21</li> </ul> | Yes  | 7/20/2020             |
|   |   |  |   |  |                       |
|   |   |  |   |  |                       |

**RESOLUTION NO.: 21-16**

**RE: Revision of HOC’s Administrative Plan for the Housing Choice Voucher Program to Add Temporary Changes in Response to COVID-19 Pursuant to HUD PIH Notice 2020-33**

**WHEREAS**, in response to COVID 19, the U.S. Department of Housing and Urban Development issued Notice PIH 2020-33 (the “Notice”) on November 30, 2020 that established temporary waivers and alternative requirements for the Housing Choice Voucher Program;

**WHEREAS**, the Notice allowed a housing authority to adopt waivers and temporarily revise its administrative plan without board approval, provided that any informally adopted revisions are approved by its board no later than June 30, 2021;

**WHEREAS**, pursuant to the Notice, the Housing Opportunities Commission of Montgomery County (“HOC” or “Commission”) informally adopted many of the waivers in the Notice, and the Commission now desires to formally revise its Administrative Plan for the Housing Choice Voucher Program (the “Plan”) to add the temporary waivers; and

**WHEREAS**, the recommended revisions to the Plan are outlined in the attached Exhibit A.

**NOW, THEREFORE, BE IT RESOLVED** that the Housing Opportunities Commission of Montgomery County adopts the revisions to the Plan as identified in the attached 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.

**I HEREBY CERTIFY** that the forgoing resolution was adopted by the Housing Opportunities Commission of Montgomery County at a regular open meeting conducted on February 3, 2021.

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**Patrice M. Birdsong**  
**Special Assistant to the Commission**

**AUTHORIZATION TO IMPLEMENT  
VOUCHER PAYMENT STANDARDS  
BASED ON HUD FY 2021 SMALL AREA FAIR MARKET RENTS**

**February 3, 2021**

- On January 17, 2018, HUD published new guidance on the use of Small Area Fair Market Rents to determine Voucher Payment Standards for PHAs who operate a Housing Choice Voucher program.
- On October 1, 2020 HUD published its Fiscal Year 2021 Fair Market Rents (FMR) for all jurisdictions in the United States of America.
- Annually, HOC is required to implement the new FMRs and corresponding Voucher Payment Standards (VPC) for the upcoming fiscal year based on a percentage of the FMRs.
- According to HUD Notice PIH 2018-01, mandatory use of SAFMRs is now in effect for all 24 designated SAFMR areas, which includes the Washington-Arlington-Alexandria, DC-VA-MD HUD Metro FMR Area in which HOC is located.
- Staff recommends that the Commission approve the Voucher Payment Standards for FY 2021 based on the chart featured in the following memo and resolution.

**M E M O R A N D U M**

**TO:** Housing Opportunities Commission of Montgomery County

**VIA:** Stacy L. Spann, Executive Director

**FROM:** Lynn Hayes                                      Division: Housing Resources                                      Ext. 9622

**RE:** Authorization to Implement Voucher Payment Standards Based on HUD FY 2021 Small Area Fair Market Rents

**DATE:** February 3, 2021

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**STATUS:**            **Committee Report: Deliberation**   **X**  

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**OVERALL GOAL & OBJECTIVE:**

To establish the Voucher Payment Standards described below for HOC’s Fiscal Year (FY) 2021, and authorize the Executive Director, or his designee, to implement the Voucher Payment Standards described below for HOC’s administration of the Housing Choice Voucher Program during FY 2021.

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**BACKGROUND:**

Annually, the U.S. Department of Housing and Urban Development (HUD) publishes Metropolitan Area Fair Market Rents (FMR) for all jurisdictions in the United States. Public Housing Authorities (PHA), such as HOC, used these FMRs to determine the Voucher Payment Standards (VPS) for their Housing Choice Voucher (HCV) programs. The VPS is the maximum amount of subsidy, per bedroom size, which HOC can contribute on behalf of a voucher customer as the Housing Assistance Payment (HAP) portion of the rent to a given landlord. The establishment of the VPS must be between 90 and 110 percent of the FMRs for the given fiscal year. Historically, these FMRs were set for the entire Washington, DC metropolitan region, including parts of Maryland, the District of Columbia, and parts of Northern Virginia.

On November 16, 2016, HUD published a final rule in the Federal Register establishing Small Area FMRs (SAFMR). These Small Area FMRs are created at the zip code area level, thereby permitting a more precise and individualized calculation of VPSs for PHAs. To assist PHAs with implementation of the SAFMR requirements, on January 17, 2018, HUD published PIH Notice 2018-01, entitled “Guidance on Recent Changes in Fair Market Rent (FMR), Payment Standard, and Rent Reasonableness Requirements in the Housing Choice Voucher Program.” This Notice explains that mandatory use of SAFMRs is required for 24 designated SAFMR areas, including the Washington-Arlington-Alexandria, DC-VA-MD HUD Metro FMR Area, in which Montgomery County is located.

In the administration of the HCV program, SAFMRs replace the 50<sup>th</sup> percentile FMRs previously required in metropolitan areas with high concentrations of voucher families, such as Montgomery County. SAFMRs are intended to provide families residing in such areas with access to low-poverty areas by providing rental assistance at a level that makes the higher rents in such areas affordable to them.

Staff from the Housing Resources Division (HRD) conducted an extensive analysis to determine the most appropriate SAFMR percentages to use for all of the FY 2021 VPSs. HOC's objective in this regard is to maintain strong voucher utilization while also ensuring that the Agency's Voucher Payment Standards will allow HOC residents to afford the average rental unit per bedroom size in their given SAFMR zip code area.

Staff forecasted the projected rent increase amount of 2.6% using the average of the Montgomery County Voluntary Rent Guidelines. This year, landlords participating in the Housing Choice Voucher Program must adhere to the voluntary rent guidelines. The Montgomery County Council passed the COVID-19 Renter Relief Act which prohibits a landlord from raising a tenant rent by more than 2.6% if the rent increase is effective after April 24, 2020 during the state of emergency and for 90 days after the state of emergency ends.

In comparison to the FY 2020 SAFMRs, the FY 2021 SAFMRs increased nearly across all bedroom sizes, in all zip codes. The SAFMR decrease was less notable; however, there was a broad reduction among four bedroom units. Staff took into consideration the direction that the SAFMRs increased or decreased and recommend VPSs congruent with these changes. Accordingly, staff is recommending VPSs ranging from 90% to 110% of the published SAFMRs in order to keep rental units in Montgomery County attainable for HOC's voucher customers.

Though the majority of recommended VPSs are increasing, this will help reduce the rent burden that many of our families incur. Last year ended with 1127 (16%) families moving out of areas with decreased payment standards and 4922 (64%) of our households living in low-poverty areas. The recommended VPSs will continue to allow families access to better schools, transportation, healthcare and employment opportunities. HOC will incur the increase in subsidy payments in areas where the VPS is increasing. We can incur the cost utilizing funds from our HUD held reserves.

HUD's SAFMRs for Montgomery County include 71 zip codes. HOC grouped 27 zip codes into 9 VPS areas based on their identical or nearly similar SAFMRs. The remaining 44 zip codes will have individual VPS. As a result of this analysis, staff recommends that the Commission approve the Voucher Payment Standards for FY 2021 as per the attached tables.

| Suggested Payment Standard Dollar FY 2021 |       |                    |            |             |             |               |              |
|---|-------|--------------------|------------|-------------|-------------|---------------|--------------|
| Groups                                    | Zip   | City               | Efficiency | One-Bedroom | Two-Bedroom | Three-Bedroom | Four-Bedroom |
| 1   | 20842 | Dickerson          | \$ 989     | \$ 1,020    | \$ 1,194    | \$ 1,561      | \$ 1,947     |
|   | 20899 | Gaithersburg       | \$ 989     | \$ 1,020    | \$ 1,194    | \$ 1,561      | \$ 1,947     |
| Individual Payment Standard               | 21797 | Woodbine           | \$ 1,113   | \$ 1,143    | \$ 1,431    | \$ 1,854      | \$ 2,162     |
|   | 20839 | Beallsville        | \$ 1,135   | \$ 1,172    | \$ 1,339    | \$ 1,748      | \$ 2,158     |
|   | 20912 | Takoma Park        | \$ 1,150   | \$ 1,395    | \$ 1,577    | \$ 1,777      | \$ 2,202     |
|   | 20838 | Barnesville        | \$ 1,154   | \$ 1,181    | \$ 1,349    | \$ 1,748      | \$ 2,158     |
|   | 20705 | Beltsville         | \$ 1,260   | \$ 1,459    | \$ 1,532    | \$ 2,006      | \$ 2,454     |
|   | 21771 | Mount Airy         | \$ 1,291   | \$ 1,332    | \$ 1,593    | \$ 2,052      | \$ 2,519     |
|   | 20886 | Montgomery Village | \$ 1,297   | \$ 1,595    | \$ 1,815    | \$ 2,332      | \$ 2,816     |
|   | 20707 | Laurel             | \$ 1,314   | \$ 1,341    | \$ 1,547    | \$ 2,005      | \$ 2,455     |
|   | 20853 | Rockville          | \$ 1,323   | \$ 1,501    | \$ 1,706    | \$ 2,192      | \$ 2,597     |
|   | 20901 | Silver Spring      | \$ 1,384   | \$ 1,512    | \$ 1,728    | \$ 2,235      | \$ 2,615     |
|   | 20872 | Damascus           | \$ 1,390   | \$ 1,548    | \$ 1,766    | \$ 2,267      | \$ 2,722     |
| 2   | 20875 | Germantown         | \$ 1,454   | \$ 1,497    | \$ 1,712    | \$ 2,219      | \$ 2,689     |
|   | 20883 | Gaithersburg       | \$ 1,454   | \$ 1,497    | \$ 1,712    | \$ 2,219      | \$ 2,689     |
|   | 20884 | Gaithersburg       | \$ 1,454   | \$ 1,497    | \$ 1,712    | \$ 2,219      | \$ 2,689     |
|   | 20885 | Gaithersburg       | \$ 1,454   | \$ 1,497    | \$ 1,712    | \$ 2,219      | \$ 2,689     |
|   | 20898 | Gaithersburg       | \$ 1,454   | \$ 1,497    | \$ 1,712    | \$ 2,219      | \$ 2,689     |
| Individual Payment Standard               | 20874 | Germantown         | \$ 1,470   | \$ 1,771    | \$ 2,013    | \$ 2,585      | \$ 2,840     |
|   | 20877 | Gaithersburg       | \$ 1,470   | \$ 1,620    | \$ 1,847    | \$ 2,387      | \$ 2,846     |
|   | 20879 | Gaithersburg       | \$ 1,470   | \$ 1,712    | \$ 1,911    | \$ 2,493      | \$ 3,028     |
|   | 20904 | Silver Spring      | \$ 1,479   | \$ 1,786    | \$ 2,017    | \$ 2,394      | \$ 3,128     |
|   | 20777 | Highland           | \$ 1,479   | \$ 1,637    | \$ 1,938    | \$ 2,477      | \$ 3,033     |
| 3   | 20903 | Silver Spring      | \$ 1,479   | \$ 1,546    | \$ 1,766    | \$ 2,258      | \$ 2,803     |
|   | 20914 | Silver Spring      | \$ 1,479   | \$ 1,546    | \$ 1,766    | \$ 2,258      | \$ 2,803     |
| 4   | 20907 | Silver Spring      | \$ 1,485   | \$ 1,513    | \$ 1,712    | \$ 2,219      | \$ 2,689     |
|   | 20911 | Silver Spring      | \$ 1,485   | \$ 1,513    | \$ 1,712    | \$ 2,219      | \$ 2,689     |
|   | 20913 | Takoma Park        | \$ 1,485   | \$ 1,513    | \$ 1,712    | \$ 2,219      | \$ 2,689     |
|   | 20918 | Silver spring      | \$ 1,485   | \$ 1,513    | \$ 1,712    | \$ 2,219      | \$ 2,689     |
| Individual Payment Standard               | 20876 | Germantown         | \$ 1,490   | \$ 1,793    | \$ 2,079    | \$ 2,565      | \$ 3,116     |
| 5   | 20824 | Bethesda           | \$ 1,501   | \$ 1,530    | \$ 1,712    | \$ 2,242      | \$ 2,717     |
|   | 20825 | Chevy Chase        | \$ 1,501   | \$ 1,530    | \$ 1,712    | \$ 2,242      | \$ 2,717     |
|   | 20827 | Bethesda           | \$ 1,501   | \$ 1,530    | \$ 1,712    | \$ 2,242      | \$ 2,717     |
| 6   | 20847 | Rockville          | \$ 1,501   | \$ 1,530    | \$ 1,730    | \$ 2,242      | \$ 2,717     |
|   | 20848 | Rockville          | \$ 1,501   | \$ 1,530    | \$ 1,730    | \$ 2,242      | \$ 2,717     |
|   | 20849 | Rockville          | \$ 1,501   | \$ 1,530    | \$ 1,730    | \$ 2,242      | \$ 2,717     |
|   | 20851 | Rockville          | \$ 1,501   | \$ 1,530    | \$ 1,730    | \$ 2,242      | \$ 2,717     |



| Groups                      | Zip        | City             | Efficiency | One-Bedroom | Two-Bedroom | Three-Bedroom | Four-Bedroom |
|-----------------------------|------------|------------------|------------|-------------|-------------|---------------|--------------|
| Individual Payment Standard | 20859      | Potomac          | \$ 1,501   | \$ 1,530    | \$ 1,840    | \$ 2,242      | \$ 2,660     |
|                             | 20878      | Gaithersburg     | \$ 1,506   | \$ 1,743    | \$ 2,022    | \$ 2,662      | \$ 3,058     |
|                             | 20895      | Kensington       | \$ 1,512   | \$ 1,617    | \$ 1,862    | \$ 2,385      | \$ 2,888     |
|                             | 20830      | Olney            | \$ 1,519   | \$ 1,513    | \$ 1,766    | \$ 2,266      | \$ 2,689     |
|                             | 20832      | Olney            | \$ 1,519   | \$ 1,676    | \$ 2,106    | \$ 2,575      | \$ 3,121     |
|                             | 20882      | Gaithersburg     | \$ 1,519   | \$ 1,598    | \$ 2,076    | \$ 2,241      | \$ 2,709     |
| 7                           | 20891      | Kensington       | \$ 1,519   | \$ 1,513    | \$ 1,766    | \$ 2,266      | \$ 2,717     |
|                             | 20915      | Silver Spring    | \$ 1,519   | \$ 1,513    | \$ 1,766    | \$ 2,266      | \$ 2,717     |
|                             | 20916      | Silver Spring    | \$ 1,519   | \$ 1,513    | \$ 1,766    | \$ 2,266      | \$ 2,717     |
| Individual Payment Standard | 20906      | Silver Spring    | \$ 1,519   | \$ 1,766    | \$ 2,017    | \$ 2,536      | \$ 3,014     |
|                             | 20880      | Washington Grove | \$ 1,542   | \$ 1,597    | \$ 1,841    | \$ 2,380      | \$ 2,919     |
| 8                           | 20837      | Poolesville      | \$ 1,548   | \$ 1,637    | \$ 1,938    | \$ 2,477      | \$ 2,808     |
|                             | 20868      | Spencerville     | \$ 1,548   | \$ 1,637    | \$ 1,938    | \$ 2,477      | \$ 2,808     |
| Individual Payment Standard | 20866      | Burtonsville     | \$ 1,548   | \$ 1,786    | \$ 2,016    | \$ 2,580      | \$ 3,089     |
|                             | 20902      | Silver Spring    | \$ 1,561   | \$ 1,716    | \$ 1,958    | \$ 2,508      | \$ 2,909     |
|                             | 20905      | Silver Spring    | \$ 1,565   | \$ 1,766    | \$ 2,090    | \$ 2,657      | \$ 3,089     |
|                             | 20855      | Derwood          | \$ 1,638   | \$ 1,804    | \$ 2,120    | \$ 2,720      | \$ 3,126     |
|                             | 20896      | Garrett Park     | \$ 1,647   | \$ 1,692    | \$ 1,926    | \$ 2,466      | \$ 2,988     |
|                             | 20860      | Sandy Spring     | \$ 1,674   | \$ 1,786    | \$ 2,040    | \$ 2,502      | \$ 3,033     |
|                             | 20861      | Ashton           | \$ 1,683   | \$ 1,766    | \$ 2,039    | \$ 2,529      | \$ 3,089     |
|                             | 20910      | Silver Spring    | \$ 1,683   | \$ 1,885    | \$ 2,174    | \$ 2,546      | \$ 3,023     |
|                             | 20850      | Rockville        | \$ 1,710   | \$ 1,939    | \$ 2,212    | \$ 2,922      | \$ 3,128     |
|                             | 20852      | Rockville        | \$ 1,710   | \$ 1,970    | \$ 2,176    | \$ 2,793      | \$ 3,140     |
|                             | 20814      | Bethesda         | \$ 1,767   | \$ 1,882    | \$ 2,190    | \$ 2,670      | \$ 3,162     |
|                             | 20815      | Chevy Chase      | \$ 1,833   | \$ 1,871    | \$ 2,270    | \$ 2,707      | \$ 3,283     |
|                             | 20817      | Bethesda         | \$ 1,849   | \$ 2,101    | \$ 2,256    | \$ 2,860      | \$ 3,541     |
|                             | 20871      | Clarksburg       | \$ 1,890   | \$ 2,060    | \$ 2,444    | \$ 3,161      | \$ 3,760     |
|                             | 20816      | Bethesda         | \$ 1,908   | \$ 2,038    | \$ 2,228    | \$ 2,858      | \$ 3,459     |
| 20862                       | Brinklow   | \$ 1,908         | \$ 1,989   | \$ 2,304    | \$ 2,952    | \$ 3,555      |              |
| 20818                       | Cabin John | \$ 1,917         | \$ 1,962   | \$ 2,241    | \$ 2,871    | \$ 3,474      |              |
| 9                           | 20812      | Glen Echo        | \$ 2,043   | \$ 2,088    | \$ 2,385    | \$ 3,060      | \$ 3,708     |
|                             | 20833      | Brookeville      | \$ 2,043   | \$ 2,088    | \$ 2,385    | \$ 3,060      | \$ 3,708     |
|                             | 20841      | Boyd's           | \$ 2,043   | \$ 2,088    | \$ 2,518    | \$ 3,060      | \$ 3,708     |
| Individual Payment Standard | 20854      | Potomac          | \$ 2,043   | \$ 2,158    | \$ 2,385    | \$ 3,060      | \$ 3,708     |

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**ISSUES FOR CONSIDERATION:**

Does the Housing Opportunities Commission of Montgomery County wish to accept staff's recommendation, which is supported by the Legislative and Regulatory Committee, to establish the described Voucher Payment Standards for HOC's Fiscal Year (FY) 2021, and authorize the Executive Director, or his designee, to implement the described Voucher Payment Standards for HOC's administration of the Housing Choice Voucher Program during FY 2021?

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**PRINCIPALS:**

Housing Resources Division

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**BUDGET IMPACT:**

Within each of Montgomery County's 71 zip codes there are five bedroom size options: 0, 1, 2, 3, and 4. This totals 355 different Voucher Payment Standards (VPS) for all five bedroom sizes in the 71 zip codes. Among the 355 different VPSs, 279 increased (79%), 62 decreased (17%) and 14 (4%) remained the same. Staff estimate an increase of \$3,900,000 in the Housing Assistance Payments (HAP). HOC can incur this increase in HAP using funds from its HUD held reserves.

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**TIME FRAME:**

The Legislative and Regulatory Committee informally reviewed this item at its meeting on January 25, 2021. For formal Commission action on February 3, 2021.

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**STAFF RECOMMENDATION & COMMISSION ACTION NEEDED:**

Staff recommends that the Housing Opportunities Commission of Montgomery County accept staff's recommendation to establish the described Voucher Payment Standards for HOC's Fiscal Year (FY) 2021, and authorize the Executive Director, or his designee, to implement the described Voucher Payment Standards for HOC's administration of the Housing Choice Voucher Program during FY 2021.

RESOLUTION NO.: 21-17

RE: **Authorization to Implement  
Voucher Payment Standards  
Based on HUD FY 2021 Small  
Area Fair Market Rents**

**WHEREAS**, the regulations of the U.S. Department of Housing and Urban Development (“HUD”) require that the Housing Opportunities Commission of Montgomery County (“HOC”) establish and implement new Voucher Payment Standards (“VPS”) annually for use in HOC’s administration of the Housing Choice Voucher Program; and

**WHEREAS**, the establishment of the VPS must be between 90 and 110 percent of the HUD Small Area Fair Market Rents (SAFMR) for the given fiscal year.

**NOW, THEREFORE, BE IT RESOLVED** that the Housing Opportunities Commission of Montgomery County establishes the Voucher Payment Standards for FY 2021 as shown on **Exhibit A**.

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

**I HEREBY CERTIFY** that the forgoing resolution was adopted by the Housing Opportunities Commission of Montgomery County at a regular open meeting conducted on February 3, 2021.

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**Patrice Birdsong**  
**Special Assistant to the Commission**

**EXHIBIT A**

**Fiscal Year 2021 Voucher Payment Standard Tables**

[Attached]



# Development and Finance Committee

**Hillandale Gateway: Approval to Select Renascent, Inc. as the Demolition Contractor for Holly Hall Apartments in Accordance with Information for Bid (“IFB”) #2222 and Authorization for the Executive Director to Negotiate and Execute a Contract for the Demolition**

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**Silver Spring**



**STACY L. SPANN, EXECUTIVE DIRECTOR**

KAYRINE V. BROWN  
ZACHARY MARKS  
KATHRYN HOLLISTER  
PAUL VINCIGUERRA



# Table of Contents

| Topic                                | Page # |
|--------------------------------------|--------|
| Executive Summary                    | 3      |
| Background                           | 4      |
| Background – Demolition Planning     | 5      |
| Method of Procurement                | 6      |
| Scope of Work                        | 7      |
| Bid Evaluation                       | 8      |
| Demolition Contractor Recommendation | 9      |
| Summary & Recommendations            | 10     |



# Executive Summary

- Holly Hall Apartments (“Holly Hall”), located at 10100, 10110 and 10120 New Hampshire Avenue in Silver Spring, MD, is a former 96-unit Public Housing community and the future development site of Hillandale Gateway, a new mixed-use, mixed-income multigenerational community.
- Holly Hall is currently vacant and the three buildings on the site have reached the end of their useful life cycles. In order to facilitate the development of Hillandale Gateway, HOC is seeking the services of a demolition contractor (“Demolition Contractor”) to demolish the existing buildings and prepare the site for construction.
- On November 4, 2020, the Commission approved a budget and funding in the amount of \$843,700 for the demolition of Holly Hall, which includes pre-demolition work, demolition and contingency.
- On December 8, 2020, HOC issued Invitation for Bid No. 2222 (“IFB #2222”) for the Demolition of Holly Hall Apartments. HOC received 12 proposals. Bids ranged in price from \$379,950 to \$820,000.
- Pursuant to the IFB, the contract will be awarded to the responsive and responsible bidder offering the lowest base bid. A responsive bidder provides a bid that meets the criteria laid out in the IFB. A responsible bidder demonstrates that it has the experience, personnel, equipment, and finances to perform the requirements of the contract.
- After an evaluation of the bids received, staff recommends that the Commission award IFB #2222 to Renascent, Inc. (“Renascent”) and authorize the Executive Director to negotiate and execute a contract for the demolition of Holly Hall.
  1. Staff has determined that Renascent is a responsive and responsible bidder and that its proposal meets the qualification and financial requirements of IFB #2222.
  2. Renascent’s bid of \$379,950 was the lowest received (\$49,050 less than the next lowest bid). The award of IFB #2222 will be made from funds approved by the Commission on November 4, 2020.

# Background



Hillandale Gateway will be a new mixed-use, mixed-income multigenerational development located on the Holly Hall and site formerly owned by Capital One Bank, N.A. (“CONA”), (together, the “Development Site”). The Development Site is located at the northwest corner of the intersection of Interstate 495 and New Hampshire Avenue in the Hillandale neighborhood of Silver Spring. The disposition of Holly Hall from the Public Housing program made possible by the Rental Assistance Demonstration (“RAD”) program, the permanent off-site relocation of residents (along with their rental assistance) to newly-constructed Victory Crossing and Fenton Silver Spring, and the provision of additional density at the Development Site via the White Oak Science Gateway Master Plan, provide HOC with an entirely unencumbered property with significant redevelopment potential.

Holly Hall is currently vacant and the three buildings on the site have reached the end of their useful life cycles. To facilitate the development of Hillandale Gateway, the existing buildings must be demolished and the site prepared for construction.

# Background – Demolition Planning

**November 4, 2020**

Commission approves budget and funding for the demolition of Holly Hall

**December 8, 2020**

HOC issues IFB No. 2222 for the Demolition of Holly Hall Apartments (“IFB #2222”)

**December 14, 2020**

HOC hosts a pre-bid conference for IFB #2222

**January 6, 2021**

Responses to IFB #2222 due; public bid opening.

# Method of Procurement

HOC Procurement Policy, Section 5.3, allows for a Sealed Bid, also referred to as an Invitation for Bid (“IFB”), to be used for the procurement of these demolition services. Under the Sealed Bid/IFB process, HOC publicly solicits bids and awards a firm a fixed price contract to the qualified and responsive bidder offering the lowest price. A Sealed Bid/IFB is generally the preferred method for procuring construction, supplies, and other well defined services in excess of \$150,000.

A Sealed Bid/Invitation for Bid is generally used in situations meeting the following requirements:

- A complete and accurate statement of work, specifications, and conditions of purchase are available;
- Multiple responsible bidders are willing and able to compete for the work;
- The scope of work is such that the bidders can submit a firm fixed price and the contract can be awarded based upon a fixed price;
- The selection of the successful bidder can be made principally on the basis of price.

The Invitation for Bids procurement process includes the following steps:

- HOC publicly issues an Invitation for Bid, which includes all specifications, contractual terms, and other conditions defining the services that HOC requires. The IFB includes a statement that the work will be awarded to the responsive and responsible bidder offering the lowest price.
  - A responsive bidder provides a bid that meets the criteria laid out in the bidding documents.
  - A responsible bidder demonstrates that it has the experience, personnel, equipment, and finances to perform the requirements of the contract.
- An exact date and time is specified for all bids to be received by HOC.
- At the bid opening time, all bids that have been received by HOC are publicly opened and read aloud. Bids that are not received by the required time are disqualified and not considered.
- HOC staff evaluates all the bids that have been received to determine that they are responsive to the requirements of the IFB and that the bidder is capable of performing the work. The bidder who meets these requirements and offers the lowest price is selected to perform the work.

# Scope of Work

A summary of the scope of work (“Scope of Work”) and contract requirements for IFB #2222 is outlined below:

## **Contractor is responsible for:**

- Demolishing Holly Hall Apartments (consisting of three apartment buildings) down to slab grade. Additional site disturbance will be limited to 4,999 square feet. All asphalt, curbs and gutters are to remain.
- Ensuring that water and sewer are disconnected and capped off prior to demolition.
- Rodent inspection and treatment, and obtaining pest removal letter necessary for raze permit.
- Dust control and adhering to any applicable noise ordinances.
- Removal and abatement of hazardous material.
- Pulling the Montgomery County Demo/Raze permit(s) and any costs associated therewith.
- Engaging Minority, Female and Disabled (“MFD”) subcontractors and/or suppliers, as certified by a Federal or locally recognized certification program with respect to at least twenty percent (20%) of its contracts for subcontract work and supplies.
- Complying with all prevailing federal, state and local codes and regulations and in strict conformance with all prevailing Montgomery County Codes.

## **Owner (HOC) is responsible for:**

- Gas, electrical, and communication utility disconnections.
- Site fencing.

# Bid Evaluation

- Twelve (12) Demolition Contractors provided bids. Bids ranged in price from \$379,950 to \$820,000. A summary of the bids received appears to the right, in the order in which they were opened. Renascent, Inc. provided the lowest bid.
- On November 4, 2020, the Commission approved a demolition budget in the amount of \$843,700 for the demolition of Holly Hall (see chart below), which included pre-demolition work (such as permitting, utility disconnections and fencing), demolition work (including demolition of the buildings and hazardous material abatement and removal), and contingency. The award of IFB #2222 will be made from these already approved funds.
- The demolition of Holly Hall is to be funded by the Opportunity Housing Reserve Fund (“OHRF”) and managed by HOC.

| Demolition Budget                              |                  |
|--|------------------|
| Approved by the Commission on November 4, 2020 |                  |
| Permitting                                     | \$27,000         |
| Utility Disconnections                         | \$12,000         |
| Site Fencing                                   | \$18,000         |
| Erosion and Sedimentation Control              | \$85,000         |
| <b>Demolition (est.)</b>                       | <b>\$600,000</b> |
| Miscellaneous                                  | \$25,000         |
| <b>SUBTOTAL</b>                                | <b>\$767,000</b> |
| 10% Contingency                                | \$76,700         |
| <b>TOTAL</b>                                   | <b>\$843,700</b> |

|    | Company Name                                 | Address   | Bid              |
|----|--|---|------------------|
| 1  | Goel Services, Inc.                          | 3027 Hubbard Road<br>Suite 101<br>Landover, MD 20785    | \$690,000        |
| 2  | ACECO, LLC                                   | 901 Stoddard Place<br>Silver Spring, MD 20910           | \$488,000        |
| 3  | Bowen & Kron<br>Enterprises, Inc.            | 9315 Pulaski Highway<br>Baltimore, MD 21220             | \$820,000        |
| 4  | Rodgers Brothers<br>Custodial Services, Inc. | 1535 Antelope Lane<br>Capitol Heights, MD 20743         | \$797,850        |
| 5  | <b>Renascent, Inc.</b>                       | <b>80 M Street, SE<br/>Washington, DC 20003</b>         | <b>\$379,950</b> |
| 6  | Neuber Environmental<br>Services, Inc.       | 1100 Grosser Road<br>Suite C<br>Gilbertsville, MD 19525 | \$429,000        |
| 7  | Demolition Services,<br>Inc.                 | 16377 Bennett Road<br>Culpeper, VA 22701                | \$449,332        |
| 8  | Gray & Son, Inc.                             | 430 W. Padonia Road<br>Timonium, MD 21093               | \$469,000        |
| 9  | Ritter & Parratore<br>Contracting, Inc.      | 2435 State Route 5<br>Utica, NY 13502                   | \$474,414        |
| 10 | Reclaim Company, LLC                         | 200 8th Street<br>Fairmont, WV 26554                    | \$758,088        |
| 11 | P&J Contracting<br>Company, Inc.             | 3010 Ridgewood Avenue<br>Baltimore, MD 21215            | \$614,800        |
| 12 | Mayoka Services, LLC                         | 3437 9th Street<br>Building A<br>Baltimore, MD 21225    | \$721,000        |



# Demolition Contractor Recommendation

Founded in 2004, Renascent specializes in structural demolition, selective demolition, abatement services, and recycling. Renascent is headquartered in Indianapolis, IN with regional offices in Washington, DC and Nashville, TN. Renascent opened its DC office in May 2020. Projects in the mid-Atlantic region include the implosion of the University of Virginia's University Hall basketball arena.

Renascent is a certified 100% Women Business Enterprise. For the demolition of Holly Hall, Renascent has proposed subcontracting 20% of its work to two Maryland-based MBEs:

- EnviCon Services: EnviCon is a women- and minority-owned business. EnviCon offers a range of dismantling and demolition services, including abatement, remediation and removal of hazardous material.
- CBY Enterprises: CBY is a women- and minority-owned business specializing in trucking and hauling.

## Examples of Renascent Demolition Projects



### **UTK Morrill Hall**

Asbestos abatement and demolition of a 14-story dormitory on an active university campus, while protecting a utility building 7' away. This project also consisted of relocating utilities, excavation, site grading, stabilization, and site work.

**Completed on:** 4/2020

**Location:** Knoxville, TN

**Recycled:** 98%



### **ECU Housing Towers**

Structural demolition of Eastern Kentucky University's Todd and Dupree Residence Towers, two 12-story buildings in the middle of an active urban campus.

**Completed on:** 10/2017

**Location:** Richmond, KY



### **BSU Lafollette Complex**

Demolition of three 8-story dormitory wings at Ball State University. Building remained occupied throughout the demolition, crushing and backfill operations.

**Completed on:** 8/2017

**Location:** Muncie, IN

# Summary and Recommendations

## Issues for Consideration

Will the Commission approve staff's recommendation, which is supported by the Development and Finance Committee, to select Renascent, Inc. as the demolition contractor for Holly Hall in accordance with IFB #2222 and authorize the Executive Director to negotiate and execute a contract for \$379,950 with the firm to complete the demolition of Holly Hall Apartments?

## Time Frame

For formal action at the February 3, 2021 meeting of the Commission.

## Budget/Fiscal Impact

None. Funding for the demolition of Holly Hall, including the award of IFB #2222, was approved and obligated by the Commission on November 4, 2020.

## Staff Recommendation

Staff recommends that the Commission approve the selection of Renascent, Inc. as the demolition contractor for Holly Hall in accordance with IFB #2222 and authorize the Executive Director to negotiate and execute a contract for \$379,950 with the firm to complete the demolition of Holly Hall Apartments.



**RESOLUTION No.: 21-18**

**RE: Approval to Select Renascent, Inc. as the Demolition Contractor for Holly Hall Apartments in Accordance with Information for Bid (“IFB”) #2222 and Authorization for the Executive Director to Negotiate and Execute a Contract for the Demolition**

**WHEREAS**, the Housing Opportunities Commission of Montgomery County (“HOC” or the “Commission”), is the owner of a 96-unit rental property in Hillandale known as Holly Hall Apartments located on approximately 4.35 acres of land at 10110 New Hampshire Avenue, Silver Spring, MD 20903 (“Holly Hall”); and

**WHEREAS**, Holly Hall is currently vacant and the buildings on the site have reached the end of their useful life cycles; and

**WHEREAS**, in order to facilitate the development of Hillandale Gateway, a new mixed-use, mixed-income multigenerational community, HOC is seeking the services of a demolition contractor to demolish the existing buildings and prepare the site for redevelopment; and

**WHEREAS**, on November 4, 2020, the Commission approved a budget and funding in the amount of \$843,700 from HOC’s Opportunity Housing Reserve Fund (“OHRF”) for the demolition of Holly Hall, which includes pre-demolition work, demolition, and contingency; and

**WHEREAS**, on December 8, 2020, HOC issued Invitation for Bid No. 2222 (“IFB #2222”) for the demolition of Holly Hall; and

**WHEREAS**, HOC received 12 bids, which ranged in price from \$379,950 to \$820,000; and

**WHEREAS**, pursuant to IFB #2222, the contract will be awarded to the responsive and responsible bidder offering the lowest base bid; and

**WHEREAS**, staff has determined that Renascent, Inc. (“Renascent”) is a responsive and responsible bidder that offered the lowest bid of \$379,950; and

**WHEREAS**, the Commission desires to award IFB #2222 to Renascent and authorize the Executive Director to negotiate and execute a contract for the demolition of Holly Hall; and

**WHEREAS**, the award of IFB #2222 will be made from funds approved by the Commission on November 4, 2020.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that it approves the award of IFB #2222 to Renascent, Inc. and authorizes the Executive Director, or his designee, to negotiate and execute a contract with Renascent, Inc. for the demolition of Holly Hall.

**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.

**I HEREBY CERTIFY** that the foregoing resolution was approved by the Housing Opportunities Commission of Montgomery County at a regular open meeting conducted on February 3, 2021.

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Patrice M. Birdsong  
Special Assistant to the Commission

**HOC HEADQUARTERS: AUTHORIZATION TO TRANSMIT TO THE  
PLANNING BOARD, THE SECOND PHASE OF MANDATORY REFERRAL  
SUBMISSION; APPROVAL OF AND FULL FUNDING OF REVISED FY21  
PREDEVELOPMENT BUDGET**

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**RELOCATING 10400 DETRICK TO PURPOSE BUILT HQ**



**STACY L. SPANN, EXECUTIVE DIRECTOR**

**Kayrine Brown  
Zachary Marks  
Jay Shepherd**

**February 3, 2021**

# Table of Contents

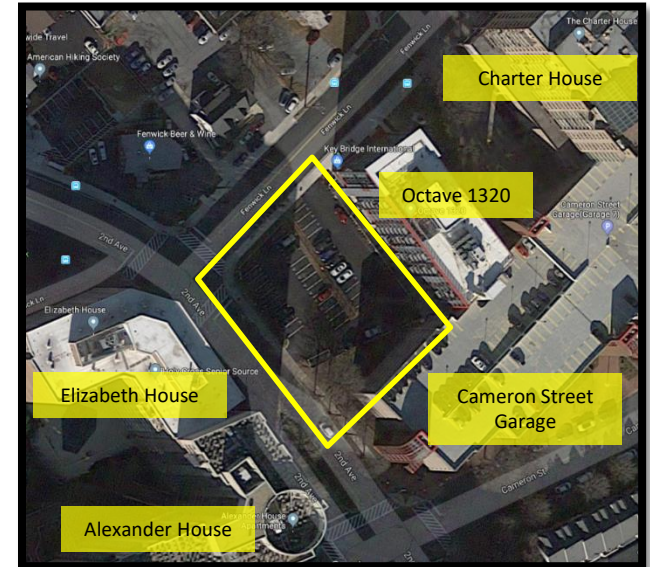
| Topics                                | Page |
|---------------------------------------|------|
| Executive Summary                     | 3    |
| Mandatory Referral Process            | 4    |
| Site Context                          | 5    |
| Site Considerations                   | 6    |
| HOC HQ – Exterior Design              | 7    |
| HOC HQ – Elevation Study              | 9    |
| HOC HQ – Current Design               | 10   |
| HOC HQ – Plan                         | 11   |
| Pre-Development Budget Increase       | 13   |
| Predevelopment Timeline               | 14   |
| Other Governmental Approvals          | 15   |
| Prior Commission Actions & Next Steps | 16   |
| Summary and Recommendations           | 17   |

# Executive Summary

The Housing Opportunities Commission of Montgomery County Maryland ("HOC" or the "Commission"), a public body subject to the statutory provisions for mandatory referral review under Sections 20-301, et. of the Land Use Article of the Maryland Code (2012, as amended), is planning to construct its new headquarters office building ("Building" or "HOC HQ") at the southeast corner of the intersection of Second Avenue and Fenwick Lane in Downtown Silver Spring. The property contains approximately 20,555 sq. ft. (tract area) and is zoned Commercial/Residential, CR-5.0, C-4.0, R.4.75, H-145T (the "Property"). The Property is currently used as a surface parking lot. The Property will be developed in accordance with the optional method of development provisions of Section 59.4.5.4 of the Zoning Ordinance to the extent applicable through mandatory referral.

On April 3, 2019, HOC authorized the Executive Director to execute a Development Agreement and Ground Lease with Promark for the joint development of Property, engaged Design Collective, Inc. for architectural services to design and entitle, and administer construction for the HOC HQ, and subsequently on May 6, 2020, approved pursuing site development approval for the New HQ under Mandatory Referral.

On August 7, 2020, the first application of the two-step Mandatory Referral process, the Location Review Application, was submitted to Montgomery County Planning Board and on November 12, 2020, it was unanimously approved. Design continued on the New HQ and staff is ready to obtain the second approval for Design and Administrative Subdivision for the building and Property. Staff is updating the FY2021 budget to account for \$258,150 in additional predevelopment expenses including Telecom/Audio Visual and Security design, acoustics/lighting and environmental graphics design, dry utility consulting, development fee and contingency. This brings the total predevelopment budget to \$2,908,300, of which \$2,158,300 was previously approved. Staff is requesting a third and final installment of \$750,000 development budget funding for CY2021.



# Executive Summary

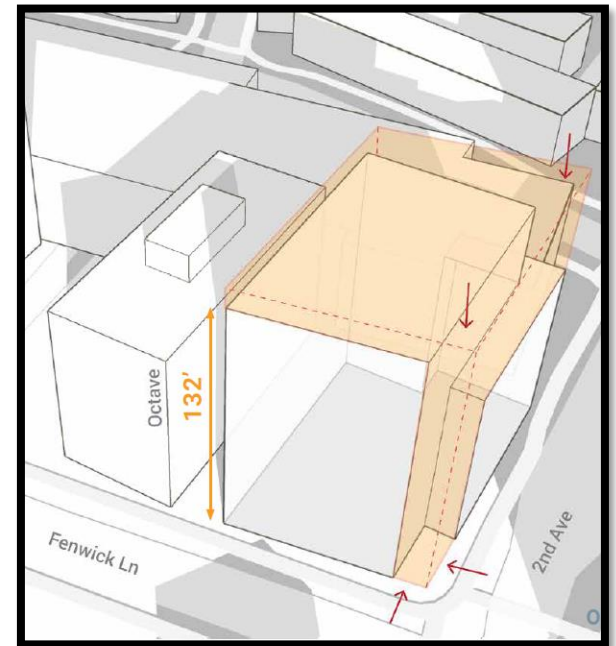
As described in the subsequent slides, this second submission is for Design and Administrative Subdivision approvals under Mandatory Referral and reflects an evolution of the massing concepts based on feedback received from the community and Planning staff since the submission of the Location Review Plan on August 7, 2020.

**General enhancements since the Location Plan shown on this Design Plan include the following elements:**

- Sculpted building height at 132 feet, below the allowable 145 feet.
- Building Façade treatments and glazing
- Details on the height of the first and second floors
- Building setbacks and loading service enhancements
- Better integration of the public space and conformance with the Second Avenue/Silver Spring Habitat Corridor;
- Materially enlarged roof terrace and storm water mitigation;
- Improved alignment of Pedestrian/Cyclist connection; and
- Enhanced building entrance and streetscape standards.

Simultaneously, HOC submits an administrative subdivision application to combine certain properties in accordance with applicable statutory, regulatory, and administrative procedures. The existing development on the Property is a surface parking lot zoned CR-5.0, C-4.0, R-4.75, II-145-T. The Property will be developed under the optional method of development. The proposed development of the office building will not exceed the density allowed under the existing zoning. The increase is analyzed for adequacy of public facilities, which have been found to be satisfactory.

Further design enhancements will continue on the Building and presented to the Commission for review and approval as they progress.





# Mandatory Referral Process

## Mandatory Referral Two-Step Process

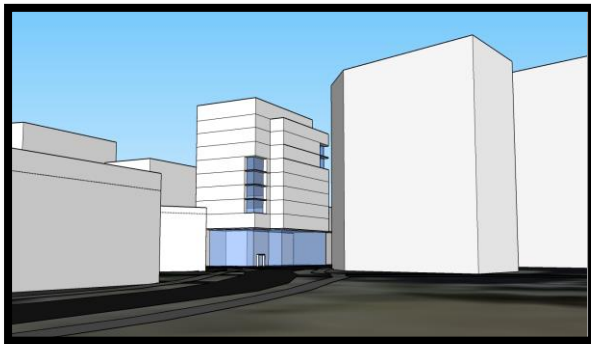
Mandatory Referrals are plans submitted by government agencies for a variety of development activities including road improvements, public school projects, and any other government-owned property development. The primary reason for pursuing this path is multi-fold in the Montgomery County entitlement process. By its very nature, it shortens the steps involved in the approval process, which has a direct savings to design, legal, engineering studies, and accrued interest on funding. Mandatory Referral is not available to multifamily residential developments.

Step One: Review of  
the Proposed  
Location – site  
selection for the new  
HQ office building

Step Two: Review of  
the Subdivision Plan  
and Site Plan Design  
of the proposed use.

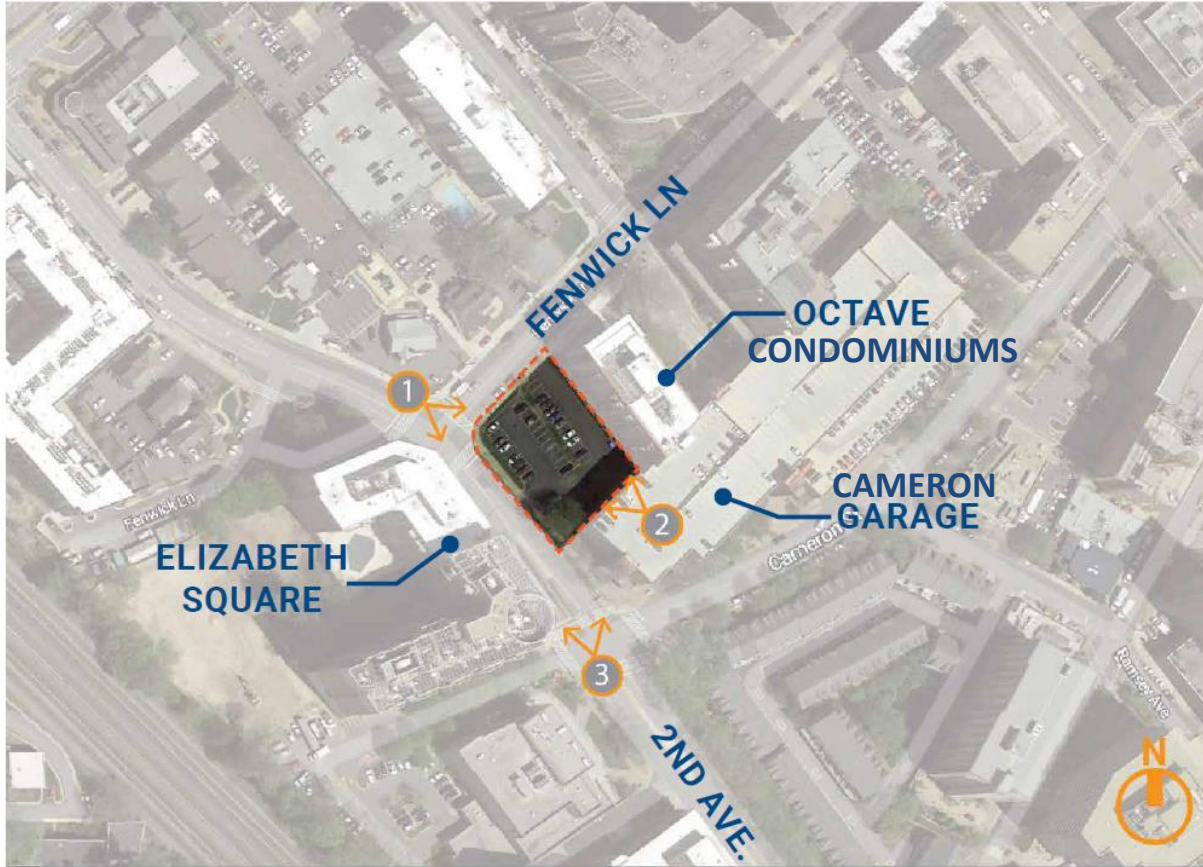
### Entitlement Process Update:

- **Step 1 Location Review:**
  - Community Meeting July 29, 2020;
  - Initial application submitted August 7, 2020;
  - Montgomery County Planning Board unanimously approved the Location Review Application on November 12, 2020.
- **Step 2 Administrative Subdivision and Design Review:**
  - Community Meeting: December 16, 2020;
  - Initial Application submitted December 22, 2020;
  - Final Submission: Expected in Early February, 2021. The second step includes Review of the Design and Site Plan as an Optional Method of Development project, and a separate application for Mandatory Referral review of a Subdivision Plan for the creation of a new record lot, the finding of adequate public facilities, and other applicable requirements of Chapter 50.



# Site Context

## HOC HQ - CONTEXT



2020.04.08 PAGE 1 OF 24

Design  
Collective



# HOC HQ – Exterior Design

Nine story building preliminary design, with the top floor as a +/- 3,500 square feet amenity floor for all building occupants. Main entrance to lobby is at the corner of Fenwick Lane & Second Avenue. The allowable building mass is sculpted multiple times to respond to surrounding conditions as described in more detail below. While allowed to reach 145 feet, the overall building height is set to be approximately 132 feet. Even then, the top level reaching 132 feet is a partial floor to further reduce the building height and mass for views from the street and the surrounding buildings.



Facing Second Avenue, the Building massing is cut back from the façade and from the corner to enhance compatibility and to create a focal point for the building entry. Facing Fenwick Lane, the main Building façade rotates clockwise to pull back a triangular area that opens up access for views outward and entry of sunlight for the adjacent building. Also facing Fenwick Lane, above the third level, the upper floors are set back to provide a more limited street wall and establish scale at the pedestrian level. On the east, facing the adjacent condominium, the front section of the building is recessed westward to create more separation between the two structures.

# HOC HQ – Exterior Design

This massing allows a step back at floors three and six to allow not only the preservation of view shed and direct sunlight for the neighbor on Fenwick Lane, but also allows smaller floorplates which means more direct sunlight deeper into the office space to boost employee wellness. It also allows for more energy efficient floorplate and opportunities for rooftop amenities.



# HOC HQ – Elevation Study

Two options for the façade color choices that are compatible with the neighborhood as well as providing a contemporary feel for the functions of the Commission and staff. The Building façade is clad primarily in terra cotta panels, with colors compatible with buildings in the immediate vicinity as well as the Silver Spring region. The glazing pattern is designed to optimize daylight to the office spaces. The opening size on the northeast façade is reduced, to address privacy concerns of both HOC and the adjacent condominium.





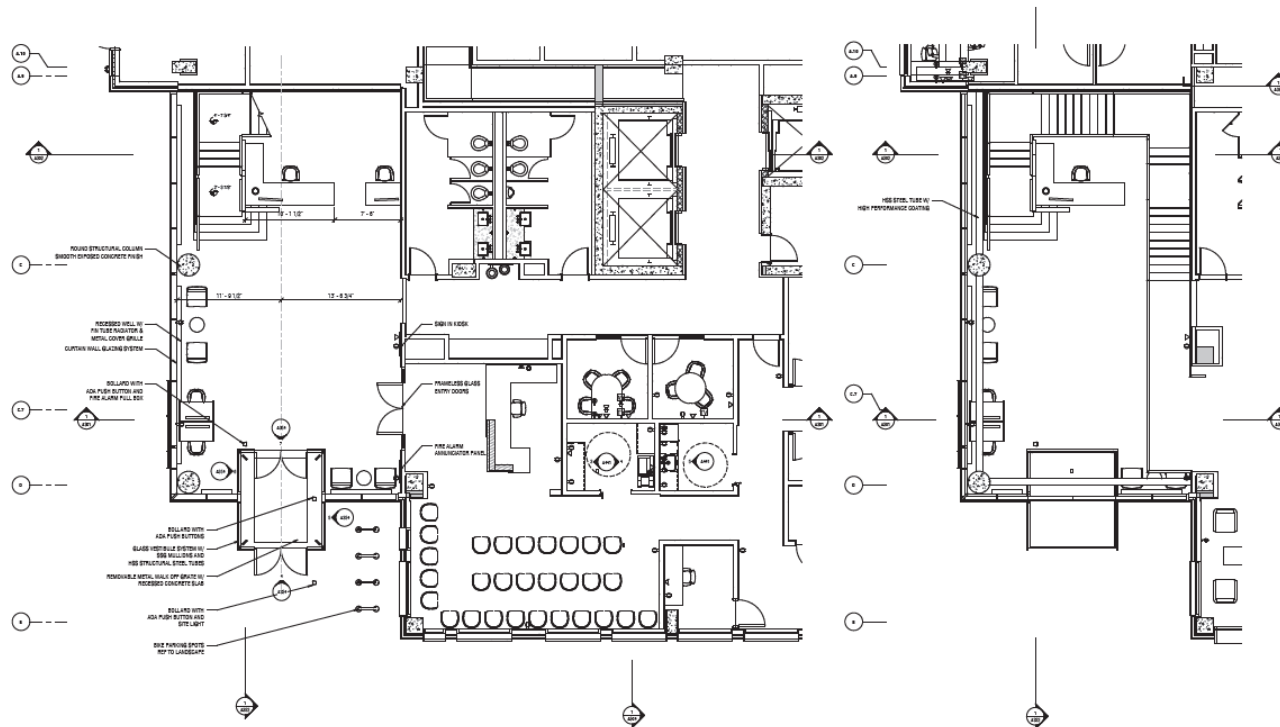
# HOC HQ – Current Design

The new HOC HQ Downtown Silver Spring is a prime location for the proposed Building for several reasons. The location selected for the Building will be a "coming home" for HOC because its headquarters building was located in Silver Spring many years ago. The location selected also brings the proposed HOC headquarters directly across the street from HOC's most significant project to date, Elizabeth Square. The Building façade uses differences in glazing treatment to emphasize interior functions. Larger, open glass surfaces are used to highlight the two story lobby, the Service Center along the Second Avenue façade, and the Hearing Room on the second level. In addition, conference rooms rising from the Buildings corner are also heavily glazed to entice the eye upward and emphasize the corner's statement. At the very top, large glass expanses create an attractive amenity area for employees, inviting them outdoors and inviting the outdoors inside.



# HOC HQ - Plan

Planning detail for the Ground Floor Lobby area, showing front desk, security, access to the Service Center along with general building functions, like the elevators and grand staircase access to the second floor chamber areas.

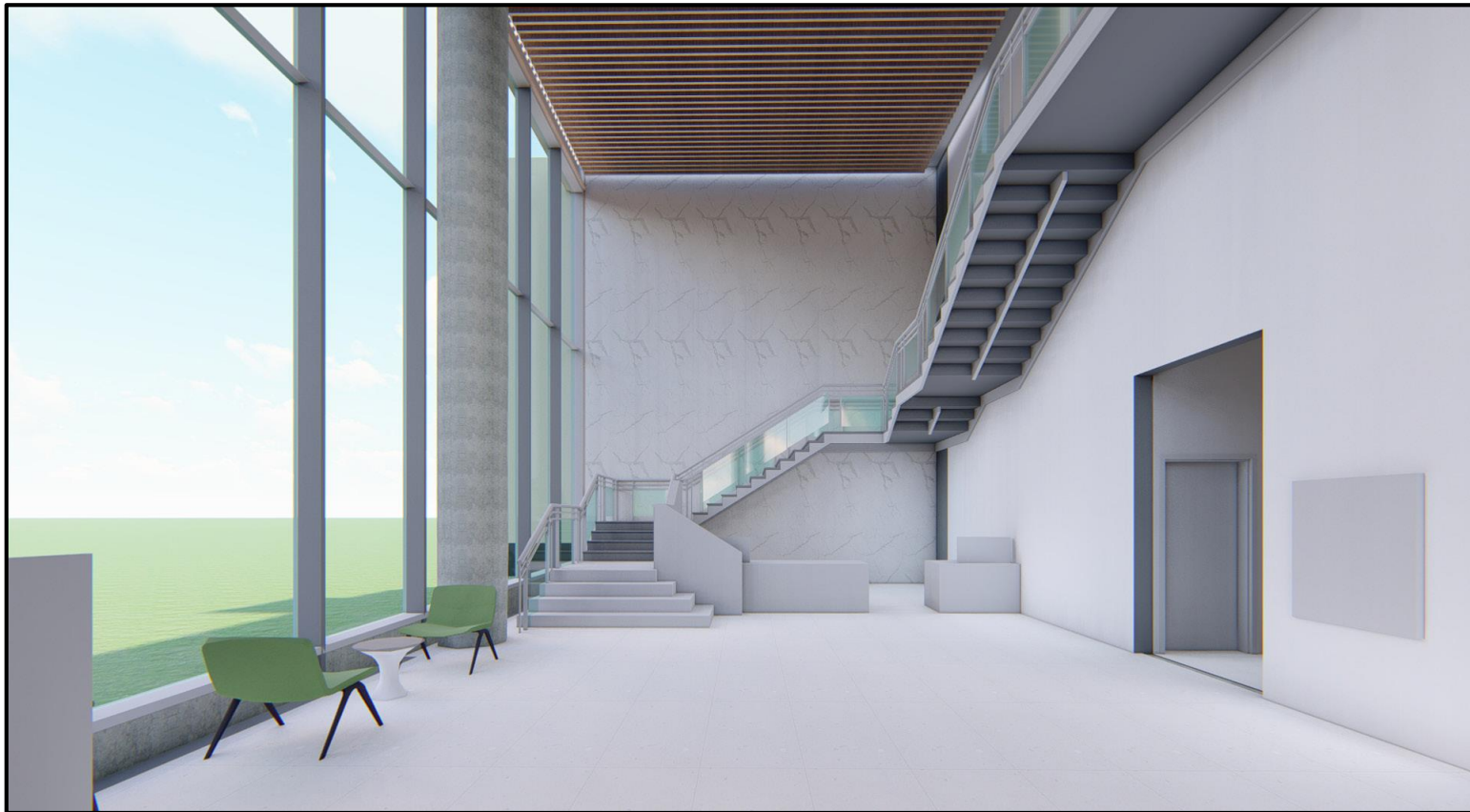


LAYOUT 1 - PLANS

Design Collective

# HOC HQ - Plan

Preliminary conceptual design of the main lobby and grand staircase to the second floor chamber areas. Design consideration for sit and feel of the access for security and ease. The Building is entered from the corner of Second Avenue and Fenwick Lane, with the entry doors facing Second Avenue. A two story glass lobby connects visitors by public stair to the Hearing Room on Level two. Levels three through eight are office space for general HOC operations. Level nine is a partial floor, providing employee common space and connecting to the outdoor roof terrace. The mechanical penthouse sits above Level nine. Level one is a taller floor with 18 foot height. Level two is 16 feet floor to floor, while Levels three through nine measure fourteen feet floor to floor.



# Predevelopment Budget Increase

The Commission is being asked to approve an increase to the budget to include revised costs of the design, dry utility consulting, development fee and contingency.

| Design & Development Budget      | Consultant                | 5/6/2020 Budget    | 1/8/2021 Budget Reallocations | Expenses Inception to 4Q20 Actual | Projected          |                  |                 |                  |                    | 2021 Totals        | Total Expenses   | Add'l Budget Auth. Req. |
|----------------------------------|---------------------------|--------------------|-------------------------------|-----------------------------------|--------------------|------------------|-----------------|------------------|--------------------|--------------------|------------------|-------------------------|
|                                  |                           |                    |                               |                                   | 1Q21               | 2Q21             | 3Q21            | 4Q21             |                    |                    |                  |                         |
| Ground Rent & Other Costs        | Promark                   | \$291,000          | \$0                           | \$0                               | \$0                | \$0              | \$0             | \$0              | \$0                | \$0                | \$0              | \$0                     |
| Architectural Design (incl. MEP) | Design Collective, Inc.   | \$945,000          | \$1,075,100                   | \$125,180                         | \$949,920          | \$0              | \$0             | \$0              | \$949,920          | \$1,075,100        | \$0              | \$0                     |
| Interior Design                  | [TBD]                     | \$15,000           | \$8,000                       | \$0                               | \$0                | \$0              | \$0             | \$0              | \$0                | \$0                | \$8,000          | \$8,000                 |
| Telecom/AV/Security              | Convergent Tech.          | \$0                | \$0                           | \$0                               | \$42,602           | \$53,918         | \$3,263         | \$0              | \$99,783           | \$99,783           | (\$99,783)       | (\$99,783)              |
| Acoustics/Lighting/Env.          | Sustainable Bldg Partners | \$0                | \$0                           | \$0                               | \$23,522           | \$29,457         | \$2,788         | \$0              | \$55,767           | \$55,767           | (\$55,767)       | (\$55,767)              |
| LEED Design, Modeling, Admin.    | DCI                       | \$25,000           | \$32,000                      | \$0                               | \$12,500           | \$18,000         | \$1,500         | \$0              | \$32,000           | \$32,000           | \$0              | \$0                     |
| Survey Work                      | Potomoc Surveying         | \$10,000           | \$10,000                      | \$4,600                           | \$0                | \$2,500          | \$0             | \$2,900          | \$5,400            | \$10,000           | \$0              | \$0                     |
| Civil Engineering                | MHG                       | \$225,300          | \$225,300                     | \$71,013                          | \$38,572           | \$38,572         | \$38,572        | \$38,572         | \$154,287          | \$225,300          | \$0              | \$0                     |
| Environmental                    | ECS                       | \$7,500            | \$7,500                       | \$3,000                           | \$0                | \$0              | \$0             | \$0              | \$0                | \$3,000            | \$4,500          | \$4,500                 |
| Traffic Engineering              | MJ Wells                  | \$28,350           | \$28,350                      | \$16,430                          | \$11,920           | \$0              | \$0             | \$0              | \$11,920           | \$28,350           | (\$0)            | (\$0)                   |
| Dry Utility Consulting           | DFM                       | \$0                | \$73,000                      | \$16,394                          | \$14,152           | \$14,152         | \$14,152        | \$14,152         | \$56,606           | \$73,000           | \$0              | \$0                     |
| PNC Bank Interest                | PNC                       | \$0                | \$4,467                       | \$1,367                           | \$600              | \$750            | \$800           | \$950            | \$3,100            | \$4,467            | (\$0)            | (\$0)                   |
| GC Precon                        | Costello                  | \$0                | \$30,000                      | \$0                               | \$30,000           | \$0              | \$0             | \$0              | \$30,000           | \$30,000           | \$0              | \$0                     |
| Soils Testing                    | Stahling                  | \$10,000           | \$11,527                      | \$11,527                          | \$0                | \$0              | \$0             | \$0              | \$0                | \$11,527           | \$0              | \$0                     |
| Title                            | Integrity                 | \$5,000            | \$5,000                       | \$820                             | \$0                | \$0              | \$0             | \$0              | \$0                | \$820              | \$4,180          | \$4,180                 |
| Legal - Entitlement              | LEB                       | \$207,000          | \$360,459                     | \$9,010                           | \$351,449          | \$0              | \$0             | \$0              | \$351,449          | \$360,459          | \$0              | \$0                     |
| Legal - Transactional            | Reno                      | \$35,000           | \$59,764                      | \$59,764                          | \$0                | \$0              | \$0             | \$0              | \$0                | \$59,764           | \$0              | \$0                     |
| Collaboration Software           | Procorem                  | \$1,500            | \$1,500                       | \$0                               | \$0                | \$0              | \$0             | \$0              | \$0                | \$0                | \$1,500          | \$1,500                 |
| Development Fee                  | Promark                   | \$104,500          | \$224,500                     | \$150,000                         | \$70,000           | \$30,000         | \$30,000        | \$30,000         | \$160,000          | \$310,000          | (\$85,500)       | (\$85,500)              |
| Construction Management          | Promark                   | \$120,000          | \$0                           | \$0                               | \$0                | \$0              | \$0             | \$0              | \$0                | \$0                | \$0              | \$0                     |
| Application & Permit Fees        | DPS                       | \$520,000          | \$472,677                     | \$22,076                          | \$0                | \$0              | \$0             | \$450,000        | \$450,000          | \$472,076          | \$601            | \$601                   |
| Staff Mileage, Reimb. Exp.       | Various                   | \$0                | \$723                         | \$323                             | \$100              | \$100            | \$100           | \$100            | \$400              | \$723              | \$0              | \$0                     |
| Contingency                      | N/A                       | \$100,000          | \$20,283                      | \$0                               | \$56,163           | \$0              | \$0             | \$0.00           | \$56,163           | \$56,163           | (\$35,880)       | (\$35,880)              |
| <b>TOTAL</b>                     |                           | <b>\$2,650,150</b> | <b>\$2,650,150</b>            | <b>\$491,504</b>                  | <b>\$1,601,499</b> | <b>\$187,448</b> | <b>\$91,174</b> | <b>\$536,673</b> | <b>\$2,416,796</b> | <b>\$2,908,300</b> | <b>\$258,150</b> | <b>\$258,150</b>        |

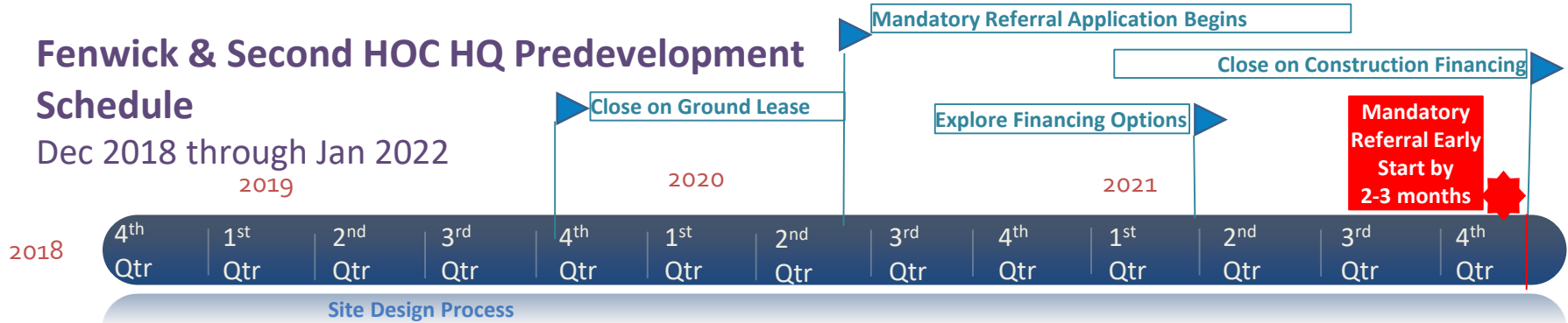
On September 5, 2018, the Commission approved the preliminary development budget of \$2,116,000 for the Property. On May 6, 2020, the Commission approved an increase to \$2,650,150 to account for Application and Permit Fees expected during the predevelopment cycle. The revised proposed budget is \$2,908,300, a \$258,150 increase to cover additional design related costs and other soft costs related to finishing the 24-month entitlement period in FY2021. This budget is expected to cover all needs through to the start of construction.

# Predevelopment Timeline

In the last quarter of 2019, the HOC began the site design process to explore concepts for the Fenwick / Second site. Staff anticipated the Site Design Process to take approximately nine to ten months. HOC has now arrived at the stage of formally preparing to submit a concept plan and will pursue Mandatory Referral instead of the traditional Planning's Sketch Plan submission and approval process.

## Fenwick & Second HOC HQ Predevelopment Schedule

Dec 2018 through Jan 2022



## Planning Process Under Mandatory Referral

Illustration of entitlement schedule under the two-step Mandatory Referral process. Once approved, the Construction Drawing ("CD") set would be finalized and the development team will file for permits and procure for the general contractor.

### Prepare for Mandatory Referral Step 1

May. 2019 – August. 2020

### Step 2 Mandatory Referral

August. 2020 – Feb. 2021

### Finalize CD Set

Mar. 2021 – August. 2021

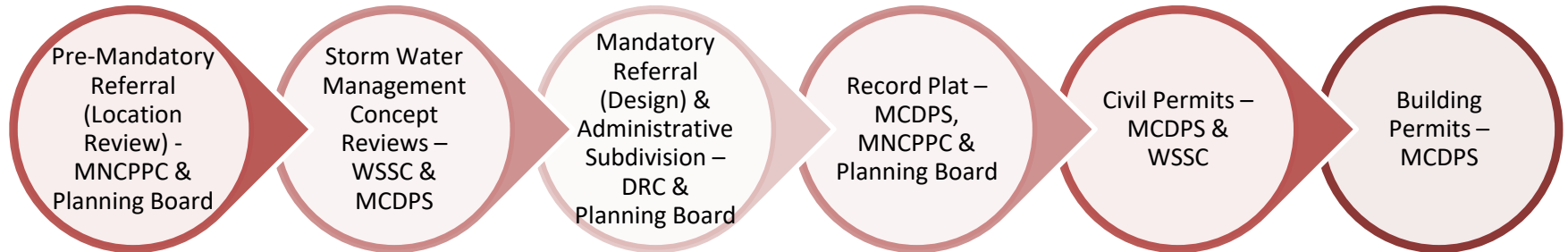
### File for Permits & GC Selection

Sep. 2021 – Dec 2021

Staff Return to the Commission with Design and GC Selection



# Other Governmental Approvals



## Estimated Dates of Completion:

- Pre-Mandatory Referral (Location Review): November 2020
- Storm Water Management Concept Reviews: March 2021
- Mandatory Referral (Design) & Administrative Subdivision: June 2021
  - Record Plat: December 2021
  - Civil Permits: December 2021
  - Building Permits: January 2022

# Prior Commission Actions and Next Steps

## Prior Commission Actions:

- **RESOLUTION No. 18-69AS**– On September 5, 2018, the Commission approved the Predevelopment Budget in the Amount of \$2,116,000 for the Design and Entitlement of Fenwick & Second; Approval to Draw on the \$60 million PNC Bank, N.A. Line of Credit (the “PNC \$60MM LOC”) to Fund a First Installment of Predevelopment Funding in the Amount of \$264,500.
- **RESOLUTION No.: 19-45AS<sub>1</sub>** On April 3, 2019, the Commission approved to Enter into a Ground Lease with Fenwick Silver Spring, LLC and a Development Services Agreement with Promark Development, LLC for the Development and Ownership of HOC’s New Headquarters Building and Approval of the Architect Selected to Complete Design and Construction Management for the Development. The resolution also authorizes the Executive Director to negotiate and enter into a contract with Design Collective, Inc. for architectural services in an amount not to exceed \$1,100,000 from the \$60MM PNC Bank, N.A. Line of Credit.
- **RESOLUTION No. 20-37A** – On May 6, 2020, the Commission approved submission of a Mandatory Referral Application for the New HQ, revised the FY21 predevelopment budget for the New HQ to \$2,650,150, and approved the expenditures for CY20 under a second installment of predevelopment funding for \$793,800.

## Next Commission Steps: February 3, 2021: Approval to Complete the Mandatory Referral Process

- Future Commission Approvals
  - FY22 Budget Updates & Design Update
  - Final Design Review and Approval
  - Selection of General Contractor
  - Development Financing Plan
  - Other Commission Approvals (as needed)

# Summary and Recommendations

## ISSUES FOR CONSIDERATION

Will the Commission accept staff's recommendation which is supported by the Development and Finance Committee to:

1. Authorize the Executive Director to complete the Mandatory Referral Application process for the redevelopment of the Second and Fenwick parcel known as the HOC HQ site?
2. Approve a revised predevelopment budget of \$2,908,300, up from \$2,650,150 previously approved in 2020, to account for additional softs costs to finish design and entitlement during the predevelopment phase and affirm the funding of the budget from the PNC \$60MM LOC?
3. Approve third and final installment of development budget funding of \$750,000 from the Original PNC Bank, N.A. Line of Credit?

## BUDGET FISCAL/IMPACT

If approved, draws on the PNC \$60MM LOC will bear interest at the 30-day LIBOR plus 90 basis points. This will increase the interest expense in the Agency's operating budget by the imputed amount and paid from the Commission's general funds, but will be repaid from proceeds at the closing of the construction financing. The overall fiscal impact is a reduction in the Commission's borrowing capacity by any amount drawn on the PNC lines of credit.

## TIME FRAME

For formal action at the February 3, 2021 meeting of the Commission.

## STAFF RECOMMENDATION AND COMMISSION ACTION NEEDED

Staff recommends that the Commission:

1. Authorizes the Executive Director to complete the Mandatory Referral Application process for the redevelopment of the Second and Fenwick parcel known as the HOC HQ site;
2. Approves a revised predevelopment budget of \$2,908,300, up from \$2,650,150 previously approved in 2020, to account for additional softs costs to finish design and entitlement during the predevelopment phase and affirm the funding of the budget from the PNC \$60MM LOC;
3. Approves a third and final installment of development budget funding of \$750,000 from the Original PNC Bank, N.A. Line of Credit.

**RESOLUTION NO.: 21-19<sub>A</sub>**

**RE: HOC Headquarters: Authorization to Transmit to the Planning Board the Second Phase of Mandatory Referral Submission; and Approval of and Full Funding of the Revised FY21 Predevelopment Budget**

**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 (“PNC LOC”) to fund the first installment of predevelopment funding in the amount of \$264,500; and

**WHEREAS**, On April 3, 2019, the Commission approved to Enter into a Ground Lease with Fenwick Silver Spring, LLC and a Development Services Agreement with Promark Development, LLC for the Development and Ownership of HOC’s New Headquarters Building and Approval of the Architect Selected to Complete Design and Construction Management for the Development. The resolution also authorizes the Executive Director to negotiate and enter into a contract with Design Collective, Inc. for architectural services in an amount not to exceed \$1,100,000 from the PNC LOC.

**WHEREAS**, on May 6, 2020, in order to expedite the delivery of New HQ, reduce overall costs, and minimize development period risk, the Commission approved submitting an application for the two-step process of Mandatory Referral for the New HQ; and

**WHEREAS**, also on May 6, 2020, the Commission approved a revised predevelopment budget in the amount of \$2,650,150 and a second installment draw on PNC LOC for predevelopment funding of \$793,800 to cover costs attributable to a required traffic engineering study and permit and application fees for the initial feasibility design and entitlement of the New HQ; and

**WHEREAS**, on November 12, 2020 the Montgomery County Planning Board unanimously approved the New HQ Location Review Application and the Commission is now ready to submit the second step of the Mandatory Referral process for the New HQ; and

**WHEREAS**, the costs for calendar year 2021 have been projected and additional predevelopment expenses including telecom/audio visual and security design, acoustics/lighting and environmental graphics design, dry utility consulting, development fee and contingency requires the total predevelopment budget to be revised; and

**WHEREAS**, the current revised predevelopment budget for the New HQ is \$2,908,300 and the final installment of \$750,000 may be funded from the PNC Bank, N.A. Line of Credit.

**NOW, THEREFORE, BE IT RESOLVED** that the Housing Opportunities Commission of Montgomery County authorizes the submission of the second step of the Mandatory Referral Application process for the New HQ.

**BE IT FURTHER RESOLVED** that the Housing Opportunities Commission of Montgomery County approves a revised total predevelopment budget of \$2,908,300 for the design and entitlement of the New HQ and the use of the PNC Bank, N.A. Line of Credit as the source to fund the final installment of \$750,000.

**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.

**I HEREBY CERTIFY** that the foregoing resolution was approved by the Housing Opportunities Commission of Montgomery County at a regular open meeting conducted on February 3, 2021.

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Patrice M. Birdsong  
Special Assistant to the Commission

**RESOLUTION No. 21-19<sub>B</sub>**

**RE: Approval to Draw on the PNC Bank, N.A. Line of Credit to Fund a Third Installment of Predevelopment Funds for HOC's New Headquarters Building**

**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 (the "PNC LOC") 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 and a second installment draw on PNC LOC for predevelopment funding of \$793,800 to cover costs attributable to a required traffic engineering study and permit and application fees for the initial feasibility design and entitlement of the New HQ; and

**WHEREAS**, the costs for calendar year 2021 have been projected and additional predevelopment expenses including telecom/audio visual and security design, acoustics/lighting and environmental graphics design, dry utility consulting, development fee and contingency requires the total predevelopment budget to be revised; and

**WHEREAS**, the current revised predevelopment budget for the New HQ is \$2,908,300 and the cost of the third and final installment of predevelopment funding is \$750,000; and

**WHEREAS**, the Commission may make draws on the PNC LOC at a taxable rate equal to London Interbank Offered Rate ("LIBOR") (at 1-month, 3-month, 6-month, or 12-month LIBOR) plus 90 basis points.

**NOW, THEREFORE, BE IT RESOLVED** that the Housing Opportunities Commission of Montgomery County authorizes a third draw in the amount of \$750,000 at a rate of one-month LIBOR plus 90 basis points on the PNC LOC to fund a third installment of the total predevelopment budget to be repaid, including cost of interest, from the proceeds of the New HQ's construction-period financing, and that this draw shall have a due date that coterminous with the termination date of the PNC LOC, which is currently June 30, 2021.

**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.

**I HEREBY CERTIFY** that the foregoing resolution was approved by the Housing Opportunities Commission of Montgomery County at a regular open meeting conducted on February 3, 2021.

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Patrice M. Birdsong  
Special Assistant to the Commission

# Deliberation and/or Action



## **APPROVAL TO DRAW ON THE PNC BANK, N.A. REAL ESTATE LINE OF CREDIT TO BRIDGE RECEIPT OF COUNTY LOAN FUNDS FOR THE RENOVATION OF BROOKE PARK APARTMENTS**

**February 3, 2021**

- Brooke Park Apartments was acquired in 2013, after Montgomery County Department of Housing and Community Affairs (“DHCA”) exercised its Right of First Refusal and assigned the right to HOC to purchase Brooke Park Apartments to preserve affordable housing units in this location of the county that lacked affordable housing and risked demolition and redevelopment as luxury townhomes for the affluent, and the displacement of 18 low- and moderate-income families.
- DHCA approved and funded a \$5,200,000 HIF loan in 2013 to fund acquisition, entitlement, and some initial development costs.
- On April 9, 2020, HOC received letter of commitment from DHCA to fund the remaining \$3,747,829 needed to complete the renovation through a combination of HOME, HIF, and potentially energy-efficiency improvement related funding sources.
- Staff anticipated closing the new loan within 30-60 days from the date of the commitment letter; however, the loan has not yet closed and DHCA informed HOC staff that due to its schedule and other closing commitments, it is not expected to close prior to the end of February 2021.
- At the July 1, 2020 meeting, the Commission authorized staff to draw up to \$1.8 million on the PNC Bank, N.A. Line of Credit to bridge receipt of County loan funds to complete the renovation of Brooke Park Apartments, to be repaid, including cost of interest, from the proceeds of County loan funds, this draw has the term of six months from the date of the first draw. The date of the first draw was October 28, 2020.
- \$1,631,888 of the \$1.8 million authorized by the Commission on July 1, 2020 has already been expended to pay for the construction pay applications and other related expenses through the end of October 2020.
- In the meantime, HOC has received pay applications for November and December 2020, for \$462,449, and soon will receive pay application for January 2021. In total, staff anticipates the need of up to an additional \$1.6 million to pay for the construction and related expenses though the completion of the renovation.
- To avoid any interruption in construction activities and to enable staff and the general contractor to complete the renovation by the end of March 2021 as scheduled, staff requests the Commission’s authorization to draw up to \$1.6 million from the PNC Bank, N.A. Real Estate Line of Credit. If the Commission approves this request, the total combined amount of authorization to draw to bridge receipt of County loan funds from the PNC Bank, N.A. Line of Credit and PNC Bank, N.A. Real Estate Line of Credit will be \$3.4 million.

## M E M O R A N D U M

**TO:** Housing Opportunities Commission

**VIA:** Stacy L. Spann, Executive Director

**FROM:** Division: Real Estate  
Staff: Kayrine Brown, Deputy Executive Director Ext. 9589  
Zachary Marks, Director of Development Ext. 9613  
Gio Kaviladze, Senior Financial Analyst Ext. 9667

**RE:** Approval to Draw on the PNC Bank, N.A. Real Estate Line of Credit to Bridge Receipt of County Loan Funds for the Renovation of Brooke Park Apartments

**DATE:** February 3, 2021

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**STATUS:** Consent:  Deliberation  Status Report  Future Action

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**OVERALL GOAL & OBJECTIVE:**

To obtain approval from the Housing Opportunities Commission of Montgomery County (“HOC” or “Commission”) to draw up to \$1.6 million on the PNC Bank, N.A. Real Estate Line of Credit (“PNC RELOC”) to bridge receipt of County loan funds for the renovation of Brooke Park Apartments. This request is in addition to the \$1.8 million draw on the PNC Bank, N.A. Line of Credit (“PNC LOC”) already authorized by the Commission on July 1, 2020. If the Commission approves this request, the total combined amount of authorization to draw on LOC and RELOC to bridge receipt of County loan funds will be \$3.4 million, which will allow staff and the general contractor to complete the renovation by the end of March 2021.

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**BACKGROUND:**

In 2013, Montgomery County Department of Housing and Community Affairs (“DHCA”) exercised its Right of First Refusal and assigned the right to HOC to purchase Brooke Park Apartments. At the time of acquisition, the property was entitled for redevelopment to 10 luxury townhome units. HOC had to undergo a lengthy and costly entitlement process of amending the preliminary plan and revising the plat to obtain approval to revert to the 17 apartment units at the site. Project entitlement process was completed in 2019 and as a result, all 17 units are required to be MPDUs with rent levels at or below 65% of the Washington-Arlington-Alexandria, D.C.-Va.-Md.-W.Va. Metropolitan Statistical Area Median Income (“AMI”).

The total project cost, including costs of acquisition, entitlement, and renovation, is \$9,004,390. DHCA provided a \$5,200,000 HIF loan in 2013 to fund acquisition, entitlement, and some initial development costs. On April 9, 2020, HOC received letter of commitment from DHCA for to fund the remaining \$3,747,829 needed to complete the renovation through a combination of HOME, HIF, and potentially energy-efficiency improvement related funding sources.

On-site renovation activities started in December 2019. The initial limited “Early Start” scope of work was funded from the remaining balance of the original 2013 HIF loan. The “Early Start” scope of work was completed in April 2020. Upon the receipt of the commitment letter from DHCA for the additional funding, and to avoid costly interruption of construction activities, on April 10, 2020 HOC issued the notice to proceed for the full scope of the renovation to the general contractor. At the time, staff anticipated working with DHCA to close the new loan within 30-60 days from the date of the commitment letter. However, the loan did not close soon after the commitment letter was issued because DHCA was required to complete the environmental review process for federally funded loans. Even though the environmental review has been completed and all conditions required for the loan closing have been met, DHCA informed staff that due to its schedule and other loan closing commitments, it will not be able to close this loan prior to the end of February 2021.

The general contractor has nearly completed the building renovation and has already started significant site-work activity. This includes excavation, grading and construction of all storm water structures, retaining wall, pedestrian bridge from the parking area to accessible units, curbs/gutters, dumpster pad, and installation of site lighting. The construction activity is scheduled to be completed by the end of March 2021. Based on the project’s schedule and the construction contract, staff expects the project to incur up to an additional \$1.6 million in construction and related costs through completion by the end of March 2021:

**July 2020 Authorization to Draw on PNC LOC to Bridge Receipt of County Loan Funds**

|  |                  |
|--|------------------|
| Authorization to draw on the LOC to bridge receipt of County loan funds, July 2020 | \$1,800,000      |
| Draws from LOC for construction and related expenses through 10/28/2020            | (\$1,631,888)    |
| <b>Remaining balance of the authorization to draw on the LOC</b>                   | <b>\$168,112</b> |

**Current Request for Authorization to Draw on PNC RELOC to Bridge Receipt of County Loan Funds**

|  |                    |
|--|--------------------|
| Unpaid construction payment applications, 10/28/2020 through 12/30/2020                  | \$462,449          |
| Construction payment applications, January through March 2021, estimated                 | \$996,247          |
| Potential change orders and other costs related to the construction, estimated           | \$299,904          |
| <b>Total additional funding needed to complete the construction, estimated</b>           | <b>\$1,758,600</b> |
| Remaining balance of the authorization to draw on the LOC                                | (\$168,112)        |
| <b>Net estimated funding needed through the completion of construction by 03/31/2021</b> | <b>\$1,590,488</b> |

Without funding, HOC must issue a work stoppage order. Therefore, to avoid any interruption in construction activities, which would not only delay the completion of the renovation, but would also incur substantial additional costs, staff requests the Commission’s authorization to draw up to \$1.6 million from the RELOC to bridge receipt of County loan funds. If the Commission approves this request, the total combined amount of authorization to draw on LOC and RELOC to bridge receipt of County loan funds will be \$3.4 million, which will allow staff and the general contractor to complete the renovation by the end of March 2021. All interim fund drawn from the PNC Bank lines of credit will be repaid from the \$3,747,829 DHCA loan commitment at closing.

The PNC RELOC currently has an unobligated balance of about \$54.2 million. HOC would repay the line of credit as soon as the County financing is in place.

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**ISSUES FOR CONSIDERATION:**

Will the Commission authorize staff to draw up to \$1.6 million on the PNC RELOC to bridge receipt of County loan funds to complete the renovation of Brooke Park Apartments?

Draws on the PNC RELOC may be at a tax-exempt or taxable rate and staff proposes a taxable draw at the 30-day London Interbank Offered Rate (“LIBOR”) plus 58 basis points. The interest cost will be borne by the Brooke Park property and paid either from the development budget.

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**BUDGET/FISCAL IMPACT:**

There is no impact for the Commission’s FY2021 operating budget. The PNC RELOC interest cost to the General Fund will be reimbursed from the development budget.

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**TIME FRAME:**

Action at the February 3, 2021 meeting of the Commission.

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**STAFF RECOMMENDATION & COMMISSION ACTION NEEDED:**

Staff recommends that the Commission authorize staff to draw up to \$1.6 million on the PNC RELOC to bridge receipt of County loan funds to complete the renovation of Brooke Park Apartments.

Funds drawn are projected to be outstanding for up to three months; however, staff requests approval for a term of six months with repayment from proceeds of the DHCA loan for the renovation of the property. Staff also requests an extension of the term of the \$1.8 million LOC authorization approved by the Commission at its July 1, 2020 meeting from the original six months to up to 12 months from the date of the first draw.

Staff further recommends approval to borrow funds at the taxable 30-day LIBOR plus 58 basis points while outstanding and that repayment will be from the development budget for Brooke Park.

**RESOLUTION No: 21-20**

**RE: Approval to Draw on the PNC Bank, N.A. Real Estate Line of Credit to Bridge Receipt of County Loan Funds for the Renovation of Brooke Park Apartments**

**WHEREAS**, in 2013 the Montgomery County Department of Housing and Community Affairs (“DHCA”) exercised its right of first refusal and assigned the right to the Housing Opportunities Commission of Montgomery County (the “Commission” or “HOC”) to purchase Brooke Park Apartments (“the Property”) to preserve affordable housing units in this location of the county that lacked affordable housing and risked demolition and redevelopment as luxury townhomes for the affluent, and the displacement of 18 low- and moderate-income families; and

**WHEREAS**, DHCA approved and funded an acquisition and development loan of \$5,200,000 at the time of the acquisition and committed to provide additional funding as needed to complete the renovation; and

**WHEREAS**, in April 2020, DHCA provided a commitment letter to fund the net funding need of \$3,747,829 through a combination of HOME, HIF, and, potentially, energy-efficiency improvement related funding sources; and

**WHEREAS**, the new loan is not expected to close prior to the end of February 2021; and

**WHEREAS**, renovation activities, funded by the remaining balance of the original HIF loan, started in December 2019 and an interruption of construction activities would delay the completion of the renovation and would incur substantial additional costs to complete the renovation; and

**WHEREAS**, on July 1, 2020, the Commission authorized a \$1.8 million draw from the PNC Bank, N.A. Line of Credit to bridge receipt of County loan funds, \$1.63 million of which have already been expended; and

**WHEREAS**, based on the construction schedule, contract amount, and the projections supplied by the general contractor, staff expects the project to incur up to an additional \$1.6 million in construction and related costs through the project completion by the end of March 2021; and

**WHEREAS**, without funding, HOC must issue a work stoppage order; and

**WHEREAS**, bridge financing from the PNC Bank, N.A. Line of Credit would prevent interruption of construction and related activities; and

**WHEREAS**, the Commission may make draws on the PNC Bank, N.A. Real Estate Line of Credit at a taxable rate equal to London Interbank Offered Rate (“LIBOR”) (at 1-month, 3-month, 6-month, or 12-month LIBOR) plus 58 basis points.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that the Executive Director is hereby authorized to draw up to \$1.6 million on the PNC Bank, N.A. Real Estate Line of Credit at a taxable rate of one-month LIBOR plus 58 basis points to bridge receipt of County loan funds for the renovation of Brooke Park Apartments, to be repaid, including cost of interest, from the proceeds of County loan funds, and that this draw shall have a due date of six months from the date of the first draw.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County that the term of the previous \$1.8 million authorization to draw on the PNC Bank, N.A. Line of Credit to bridge receipt of County loan funds, approved by the Commission on July 1, 2020, is extended by six months and shall have a due date of twelve months from the date of the first draw.

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

**I HEREBY CERTIFY** that the foregoing resolution was adopted by the Housing Opportunities Commission of Montgomery County at a regular meeting conducted on February 3, 2021.

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Patrice M. Birdsong  
Special Assistant to the Commission

# Election of Officers

# Future Action



**MEMORANDUM**

**TO:** Housing Opportunities Commission of Montgomery County

**VIA:** Stacy L. Spann, Executive Director

**FROM:** Division: Real Estate  
Staff: Kayrine V. Brown, Deputy Executive Director Ext. 9589  
Zachary Marks, Chief Real Estate Officer Ext. 9613

**RE:** **HOC Recapitalization:** Discussion of Sale of Holly Hall and Veirs Mill East and the Lease Back to HOC

**DATE:** February 3, 2021

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**STATUS:** Consent:  Deliberation  Status Report  Future Action

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**OVERALL GOAL & OBJECTIVE:**

To activate and economically optimize land holdings for the production of affordable housing.

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**BACKGROUND:**

HOC has received two unsolicited offers from The Duffie Companies to purchase land owned by HOC. The first is for three parcels on the east side of Veirs Mill Road, acquired by the Commission in 2019 as part of its purchase of the Lindsay Ford automotive dealership, in Wheaton ("Veirs Mill East"). The second offer is for the approximately four-acre parcel of land on which the decommissioned Holly Hall Apartments sits ("Holly Hall").

Staff is evaluating both offers on their merits and particularly for their use in activating and economically optimizing HOC's land holdings for the production of affordable housing. Proceeds from the sale of properties such as these could be reinvested in proximate efforts, used to reduce utilization of other HOC financing tools, or invested in new opportunities to expand affordable housing in Montgomery County.

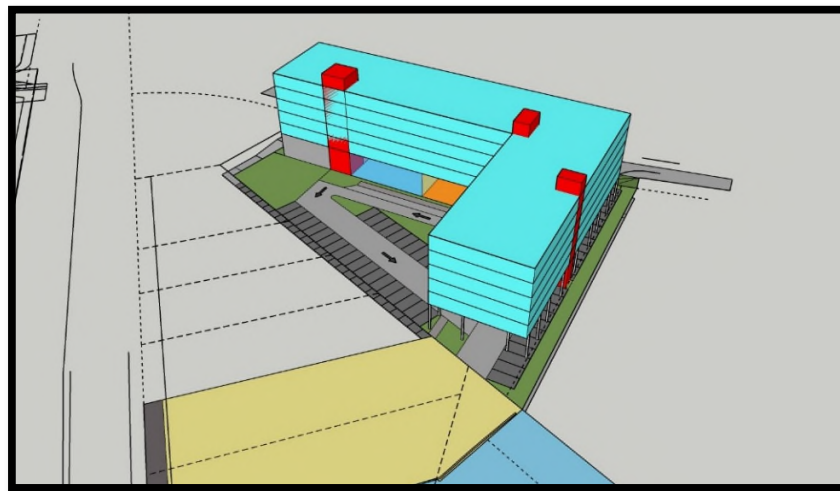
As structured, these offers for purchase would not deprive the Commission of the ability to develop the Veirs Mill East and Holly Hall properties. The Duffie Companies proposes a lease-back structure that would allow HOC to entitle, construct, and operate housing at these sites. Under the lease-back structure, HOC could be the sole owner of all improvements.

*Veirs Mill East*

Veirs Mill East is not a part of the Wheaton Gateway development where HOC, Duffie Companies, and Willco are entitling the other eight parcels from the Lindsay Ford acquisition, all located on the west side of Veirs Mill Road, for the construction of a multi-phase, mixed-use community. However, given the active development across the street, The Duffie Companies' purchase of Veirs Mill East may more fully and more quickly put to use the total Lindsay Ford acquisition.

The initial concept for Veirs Mill East would be for senior housing. This is primarily because of the dearth of affordable senior housing within the Wheaton CBD. However, a senior Veirs Mills East would add intergenerational balance to the overall redevelopment and be a less intense use proximate to the Wheaton Hill neighborhood.

Under an early concept, a 114-unit, mixed-income senior community can be erected along Kensington Boulevard on the largest of the three East Site parcels. Residential is on five stories above a concrete podium ground floor that has a 5,544-SF retail bay and approximately 4,000 SF of residential amenity space. Below grade is a single level of structured parking with 132 parking spaces reserved for the residential units.



Although the pro forma estimate is highly preliminary, Veirs Mill East projects out as a typical new construction Low Income Housing Tax Credit (“LIHTC”) transaction. The assumed affordability mix is 20% market rate and 80% affordable; and the unit mix is highly weighted toward one-bedroom units:

| UNIT MATRIX |              |       |      |             |                |            |
|-------------|--------------|-------|------|-------------|----------------|------------|
| Total Units | Bedroom Type | Baths | Type | Square Feet | Collected Rent | Rent (/SF) |
| 17          | 1            | 1     | MKT  | 700         | \$1,775        | \$2.54     |
| 74          | 1            | 1     | 60%  | 700         | \$1,342        | \$1.92     |
| 6           | 2            | 2     | MKT  | 1100        | \$2,128        | \$1.93     |
| 17          | 2            | 2     | 60%  | 1100        | \$1,591        | \$1.45     |

The sources and uses below assume a typical matching \$5MM cash contributions from HOC and the County (in the form of a Housing Initiative Fund loan). Aside from deferred fee, the balance of the required capital is made up of a tax-exempt mortgage and LIHTC equity. The stabilized pro forma includes the ground lease as an above-the-line annual expense.

| <b>Uses</b>                   | <b>\$</b>         | <b>%</b>    |
|-------------------------------|-------------------|-------------|
| Acquisition Cost              | -                 | 0%          |
| Construction Costs            | 34,283,684        | 72%         |
| Financing & Transaction Costs | 10,159,583        | 21%         |
| Developer Fee                 | 3,500,000         | 7%          |
| <b>Total Uses</b>             | <b>47,943,267</b> | <b>100%</b> |
|                               |                   |             |
| <b>Sources</b>                | <b>\$</b>         | <b>%</b>    |
| Senior Debt                   | 23,000,000        | 48%         |
| HOC Equity                    | 5,000,000         | 10%         |
| LIHTC Equity                  | 13,175,426        | 27%         |
| HIF                           | 5,000,000         | 10%         |
| Deferred Development Fee      | 1,767,841         | 4%          |
| <b>Total Sources</b>          | <b>47,943,267</b> | <b>100%</b> |

To clarify assumptions around typical operating expenses, the operating expense ratio excludes the annual ground lease payment. The annual debt service payment shown in the Stabilized Cash Flow is for the permanent debt.

| <b>Stabilized Cash Flow</b> | <b>\$</b>        |
|-----------------------------|------------------|
| <b>Gross Rental Income</b>  | <b>2,175,141</b> |
| Other Income                | 173,132          |
| Vacancy                     | (108,757)        |
| <b>Net Rental Income</b>    | <b>2,239,516</b> |
| Operating Expenses          | (894,625)        |
| Ground Lease Payment        | (180,000)        |
| <b>NOI</b>                  | <b>1,164,891</b> |
| Debt Service, Senior        | (1,101,700)      |
| <b>Net Cash Flow</b>        | <b>63,191</b>    |
|                             |                  |
| Opex Ratio                  | 40%              |

As design and development progresses, staff would explore additional ways to raise capital funds beyond the base approach shown in this pro forma.

*Holly Hall (Hillandale Gateway)*

Holly Hall is already a part of the HOC-Duffie development venture known as Hillandale Gateway. In this case, The Duffie Companies' purchase of the property would effectively result in an increased commitment of capital by The Duffie Companies to the existing partnership.

As to the valuation of these properties, staff has recent transactional and appraisal information it believes is sufficient to consider the offers. Should staff determine these offers represent significant benefit to the Commission and the Commission's goals at these locations, staff will make recommendations to the Commission for actions related to the disposition of these properties.

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**ISSUES FOR CONSIDERATION:**

None; this is a notice to the Commission of future business that may be brought before it.

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**BUDGET/FISCAL IMPACT:**

None.

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**PRINCIPALS:**

The Duffie Companies

Housing Opportunities Commission of Montgomery County

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**TIME FRAME:**

For future discussion and action.

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**STAFF RECOMMENDATION & COMMISSION ACTION NEEDED:**

None.

# Closing Statement

Written Statement for Closing a Meeting (“Closing Statement”)

**Date: February 3, 2021**

A. Pursuant to Section 3-305(b) and (d) of the General Provisions Article of the Annotated Code of Maryland, I move to adjourn this open session to a closed session only:

- 3.  “To consider the acquisition of real property for a public purpose and matters directly related thereto;” and
- 13.  “To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter.”

B. For each provision checked above, the topic to be discussed and the reason for discussing that topic in closed session is provided below:

| Statutory Citation | Topic   | Reason for closed-session discussion   |
|--------------------|---|--|
| §3-305(b)(3)       | The acquisition of real property located in Clarksburg, Maryland via a ground lease.  | The meeting must be closed to the public in order to protect HOC’s bargaining power. Public discussion of this item could result in less favorable acquisition terms.  |
| §3-305(b)(3)       | The acquisition of real property located in the southern portion of Montgomery County, Maryland.  | The meeting must be closed to the public in order to protect HOC’s bargaining power. Public discussion of this item could result in less favorable acquisition terms.  |
| §3-305(b)(13)      | The confidential commercial and financial terms of real property acquisitions located in Clarksburg, southern Montgomery County, Silver Spring and Wheaton, Maryland. | The Public Information Act prevents disclosure of confidential commercial or financial information obtained from a third-party. The meeting must be closed to the public in order to protect confidential commercial and financial information provided to HOC from private development partners. The information to be discussed is customarily and actually treated as private by the development partners and has been provided to HOC under an assurance of privacy. |

C. This statement is made by Commissioner Roy Priest, Chair.

D. Recorded vote to close the meeting:

- Date: February 3, 2021      Time: \_\_\_\_\_      Location: Zoom (live streamed on YouTube)
- Motion to close made by: \_\_\_\_\_
- Motion seconded by: \_\_\_\_\_
- Commissioners in favor: \_\_\_\_\_
- Commissioners opposed: \_\_\_\_\_
- Commissioners abstaining: \_\_\_\_\_
- Commissioners absent: \_\_\_\_\_

Officer’s Signature: \_\_\_\_\_

# Adjourn

# Closed Session