

HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY

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

Minutes

October 6, 2021

21-09

The monthly meeting of the Housing Opportunities Commission of Montgomery County was conducted via an online platform and teleconference on Wednesday, October 6, 2021, with moderator functions occurring at 10400 Detrick Avenue, Kensington, Maryland beginning at 4:02 p.m. Those in attendance were:

Present via Teleconference

Roy Priest, Chair
Frances Kelleher, Vice Chair
Richard Y. Nelson, Jr., Chair Pro Tem
Pamela Byrd
Linda Croom
Jeffrey Merkowitz

Absent

Jackie Simon

Also Attending via Teleconference

Kayrine Brown, Acting Executive Director
Cornelia Kent
Timothy Goetzinger
Charnita Jackson
Marcus Ervin
Victoria Dixon
Bonnie Hodge
Jay Shepherd
Zachary Marks
Nathan Bovelie
Ian-Terrell Hawkins

Aisha Memon, General Counsel
Terri Fowler
Fred Swan
Christina Autin
Matt Husman
Darcel Cox
Lynn Hayes
Jennifer Arrington
Eugenia Pascual
Claire Kim

IT Support

Aries Cruz

Commission Support

Patrice Birdsong, Spec. Asst. to the Commission

Guest

Romaine Canty

Chair Priest opened the meeting welcoming all to the monthly meeting. There was a roll call of Commissioners participating. Commissioner Simon was necessarily absent.

I. **Information Exchange**
Community Forum

- Romaine Canty – Addressed the Board regarding Waitlist.
- Liz Brennan – Did not address the Board. It was noted that Staff reached out to Ms. Brennan regarding her concerns.

Executive Director’s Report

- Kayrine Brown, Acting Executive Director, recaptured the written report and addressed Commissioners questions as she presented.

II. **Approval of Minutes** - The minutes were approved as submitted with a motion by Commissioner Byrd and seconded by Vice Chair Kelleher. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Croom, and Merkowitz. Commissioner Simon was necessarily absent and did not participate in the vote.

- A. **Approval of Minutes of September 1, 2021**
- B. **Approval of Minutes of September 1, 2021 Closed Session**
- C. **Approval of Minutes of September 15, 2021 Special Session**
- D. **Approval of Minutes of September 15, 2021 Closed Special Session**
- E. **Approval of Minutes of September 23, 2021 Special Session**
- F. **Approval of Minutes of September 23, 2021 Closed Special Session**

III. **CLOSED AND SPECIAL SESSION RATIFICATION**

- A. **Housing Opportunities Commission:** Ratification of Action Taken in Closed Special Session held on September 23, 2021 – Approval to Accept Two Lines of Credit from PNC Bank, N.A.

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, and Merkowitz. Commissioner Simon was necessarily absent and did not participate in the vote.

RESOLUITON NO.: 21-90ASR

**RE: Approval to Accept Two Lines of Credit from
PNC Bank, N.A.**

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, to carry out and effectuate the purpose of providing affordable housing;

WHEREAS, at a closed Special Session duly called and held on September 23, 2021, with a quorum participating, the Commission adopted Resolution 21-90AS, with Commissioners Priest, Kelleher, Nelson, Merkowitz, and Simon voting in approval, and with Commissioners Byrd and Croom being necessarily absent and not participating in the vote;

WHEREAS, by adopting Resolution 21-90AS, the Commission approved two lines of credit from PNC Bank, N.A., and authorized the Acting Executive Director to negotiate and execute all related documents; and

WHEREAS, consistent with the Commission's Second Amended and Restated Bylaws, the Commission wishes to ratify and affirm, in a regular open meeting with a quorum participating, the action undertaken by the Commissioners in adopting Resolution 21-90AS and any actions taken since September 23, 2021 to effectuate the actions contemplated therein.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that Resolution 21-90AS and any subsequent actions taken in relation thereto are hereby ratified and affirmed.

IV. **CONSENT**

A. Approval to Amend HOC's Written Minutes Dated October 15, 2019

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

RESOLUTION NO.: 21-91

**RE: Approval to Amend HOC's Written Minutes
Dated October 15, 2019**

WHEREAS, the Housing Opportunities Commission of Montgomery County (the "Commission" or "HOC") is required to keep minutes of its meetings;

WHEREAS, upon review of both the written minutes of the monthly Commission meeting dated October 15, 2019 ("October 2019 Minutes") and the video recording, the Commission desires to amend the written October 2019 Minutes; and

WHEREAS, upon approval, the October 2019 Minutes shall be amended and restated in their entirety with the minutes attached hereto as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that the October 2019 Minutes are hereby amended and restated in their entirety with the minutes attached hereto as Exhibit A.

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

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

1. **Fiscal Year 2021 Fourth Quarter Budget to Actual Statements:** Approval of the Fourth Quarter Fiscal Year 2021 Budget to Actual Statement

Cornelia Kent, Chief Financial Officer, introduced Terri Fowler, Budget Officer, who was the presenter.

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, and Merkowitz. Commissioner Simon was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-92

**RE: Acceptance of the Fourth Quarter FY'
2021 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 Fourth Quarter FY’21 Budget to Actual Statements during its October 6, 2020 meeting; and

WHEREAS, the Agency ended FY’21 with an operating surplus of \$1,241,830; and

WHEREAS, it is recommended that surplus of \$1,241,830 be restricted 50% or \$620,915 the General Fund Operating Reserve (GFOR) for future operational needs and 50% or \$620,915 to the Opportunity Housing Property Reserve (OHPR) to help replenish the reserve to fund the shortfalls for capital needs that can be expected during the FY’22 and FY’23 budget season.

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

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that it hereby authorizes that the surplus of \$1,241,830 be restricted 50% or \$620,915 the General Fund Operating Reserve (GFOR) for future operational needs and 50% or \$620,915 to the Opportunity Housing Property Reserve (OHPR) to help replenish the reserve to fund the shortfalls for capital needs that can be expected during the FY’22 and FY’23 budget season.

2. Fiscal Year 2022 First Quarter Budget Amendment: Approval of the Fiscal Year 2022 First Quarter Budget Amendment

Cornelia Kent, Chief Financial Officer, introduced Terri Fowler, Budget Officer, who was the presenter.

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 Merkowitz. Commissioner Simon was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-93

**RE: Approval of FY 2022 First Quarter
Budget Amendment**

WHEREAS, the Housing Opportunities Commission of Montgomery County (the “Commission”) adopted a budget for FY’22 on June 9, 2021;

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

WHEREAS, the net effect of the FY'22 First Quarter Budget Amendment is a surplus of \$192,960, which will decrease the anticipated draw from the General Fund Operating Reserve ("GFOR") of \$1,434,616 by \$192,960 to \$1,241,656 in order to maintain a balanced budget;

WHEREAS, the total FY'22 Operating Budget increased from \$292,911,404 to \$300,440,652;

WHEREAS, the total FY'22 Capital Budget increased from \$438,310,612 to \$439,141,889;

And

WHEREAS, approval of the budget amendments to revise the FY'22 budget will reflect an accurate plan for the use of the Commission's resources for the remainder of FY'22.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that it hereby amends the FY'22 Operating Budget by increasing total revenues and expenses for the Commission from \$292,911,404 to \$300,440,652.

BE IT ALSO RESOLVED that the Housing Opportunities Commission of Montgomery County hereby amends the FY'22 Capital Budget by increasing revenues and expenses for the Commission from \$438,310,612 to \$439,141,889.

3. Uncollectible Tenant Accounts Receivable: Authorization to Request Write-off Uncollectible Tenant Accounts Receivable (April 1, 2021 – June 30, 2021)

Cornelia Kent, Chief Financial Officer, introduced Eugenia Pascual, Controller, who 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, and Merkowitz. Commissioner Simon was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-94

**RE: Uncollectible Tenant Accounts Receivable:
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 April 1, 2021 – June 30, 2021 is \$50,389, consisting of \$34,362 from Opportunity Housing properties, \$15,149 from Supportive Housing, and \$878 from Waverly House LP.

NOW, THEREFORE, BE IT RESOLVED that the Housing Opportunities Commission of Montgomery County authorizes and directs the Acting Executive Director, or her designee, without

further action on its part, to take any and all actions necessary and proper to write off \$50,389 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.

4. Addition of Third Signer to HOC Bank Accounts: Request to Authorize the Addition of the Human Resources Director as a Third Signer to HOC's Bank Accounts

Cornelia Kent, Chief Financial Officer, was the presenter.

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, and Merkowitz. Commissioner Simon was necessarily absent and did not participate in the vote.

RESOLUTION NO: 21-95

RE: Request to Authorize the Addition of the Director of Human Resources as a Third Signer to HOC's Bank Accounts

WHEREAS, the Housing Opportunities Commission of Montgomery County ("HOC") has several bank accounts with various banking institutions (the "Accounts"); and

WHEREAS, HOC's Accounts currently have two (2) authorized signatories: the Acting Executive Director and the Chief Financial Officer; and

WHEREAS, a third (3) authorized signer should be added to the Accounts in order to ensure an authorized signer is always available; and

WHEREAS, the third authorized signer shall be limited to members of the Executive Staff;
And

WHEREAS, the Director of Human Resources is a member of the Executive Staff; and

WHEREAS, the Accounts shall have a maximum of three (3) authorized signers at any point in time.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that the Acting Executive Director is authorized to add the Director of Human Resources as an authorized signer to the Accounts, provided that the Accounts shall have a maximum number of three authorized signers at any point in time, all of whom shall be members of the Executive Staff.

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

- 1. Georgian Court:** Approval of the Financing Plan, Feasibility and Public Purpose; Authorization to Issue Loans at HOC at Georgian Court, LLC for Acquisition and Construction Financing; Authorization to Issue a Commitment for Permanent Financing; and Authorization for the Borrower to Accept Loans in Accordance with the Finance Plan

Jennifer Arrington, Acting Director of Mortgage Finance, introduced Victoria Dixon, Senior Multifamily Underwriter, who was the presenter.

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, and Merkowitz. Commissioner Simon was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-96

RE: Approval of the Financing Plan, Feasibility and Public Purpose for Georgian Court; Authorization to Issue Loans to HOC at Georgian Court, LLC for Acquisition and Construction Financing; Authorization to Issue a Commitment for up to \$29.3 Million Mortgage Loan; 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, Georgian Court (the “Property”) is an existing 147-unit income-restricted residential community located at 3600 Bel Pre Rd, Silver Spring, Maryland owned by Georgian Court Silver Spring Limited Partnership (“Seller”); and

WHEREAS, between May 2, 2018 and July 7, 2021, the Commission has approved several actions in preparation for the resyndication, rehabilitation, and recapitalization of the Property (the “Development Plan”) and committed a number of its own funding sources to execute the Development Plan; and

WHEREAS, the Property currently holds available cash of approximately (a) \$476,350 of residual receipts (“Property Cash”), and (b) a total of approximately \$1,616,358 held in various other accounts, including (i) replacement reserves (\$975,000), (ii) operating cash (\$613,593), and (iii) mortgage escrow (\$27,765) (together “Other Available Cash”); and

WHEREAS, the Property will be acquired by a single purpose entity known as HOC at Georgian Court, LLC (“Borrower”), which will be controlled by HOC MM Georgian Court, LLC (“Managing Member”) whose sole member is 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”), with 29 units set aside for those earning at or below 50% of AMI and the remaining 118 units for those earning at or below 60% of AMI, to enjoy rent protection without impairing the LIHTC equity for the development (“Public Purpose”); and

WHEREAS, on July 7, 2021, the Commission approved the selection of Boston Financial Investment Management as the Low Income Housing Tax Credit (“LIHTC”) syndicator and authorized the Executive Director to begin negotiating and execute a Letter of Intent as well as negotiate 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 September 1, 2021, the Commission approved the final development plan totaling \$72.3 million for the Property as an income-restricted community, which included (1) negotiation and execution of an Operating Agreement for admission of an affiliate of the LIHTC syndicator as investor, (2) negotiation and execution of a Purchase and Sale Agreement; (3) 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 approval for Seller to accept a subordinate loan in an amount up to the purchase price; (4) authorization to negotiate and execute a contract with Hamel Builders, Inc. as General Contractor (“GC”) for the renovations in an amount up to \$13.6 million, (4) execution of an Early Start Agreement with the GC not to exceed \$941,330; and, (5) authorization for the Acting Executive Director or her designee, to execute any and all documents to effectuate the actions contemplated (the “Final Development Plan”); and

WHEREAS, staff explored a variety of options for the estimated \$72.5 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 \$29,300,000 to fund a mortgage loan for costs of acquisition, rehabilitation, and equipping the Property, which will be credit enhanced by FHA Risk Share Mortgage Insurance (“Mortgage Loan” or “Permanent Loan”); (2) the issuance of taxable bonds in an amount up to \$750,000 to fund a bond reserve required under the indenture; (3) LIHTC equity estimated at \$22.7 million; (4) bridge funding during acquisition/construction by way of draws of approximately \$3.5 million from the OHRF, to be repaid from the receipt of LIHTC equity (“Bridge Loan”); (5) a subordinate Seller Loan of approximately \$19.3 million; (6) deferred developer fee; and (7) available Property Cash of approximately \$476,350 from residual receipts (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 \$22.7 million in equity to pay part of its acquisition and development costs; and

WHEREAS, the transaction will require an allocation of a portion of the Commission’s tax-exempt volume cap in an amount not to exceed \$29.3 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 147 units at or below 60% of the AMI, the Property will provide a 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 \$29,300,000 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 38 years to fund development of the Property, which will be subject to conversion to a Permanent Loan phase and balloon payment option at or before year 25.

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 \$29,300,000, 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 50% of the risk while HUD shall assume 50% for the transaction.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County, authorizes funding of a Bridge Loan of approximately \$3.5 million at 0% interest by way of draws from the OHRF, which shall be drawn when needed to bridge the receipt of LIHTC equity and shall be outstanding for no more than five years from the closing date.

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 release net sales proceeds from sale of the Property after repayment of existing debt and intercompany payables, and closing costs, to be funded to the OHRF on an unrestricted basis.

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 release Other Available Cash as follows: (a) funds of the replacement reserves to repay outstanding plus interest of approximately \$922,000 on the RELOC with remaining funds to be deposited to the OHRF, and (b) funds from operating cash and mortgage escrow to be deposited to HOC's General Operating Reserve.

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, and Bridge Loan 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 Acting Executive Director of HOC, or a duly appointed designee of the Acting 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 Acting Executive Director's judgment, to carry out the Financing Plan and the transaction and actions contemplated herein.

- 2. Shady Grove:** Approval of the Financing Plan, Feasibility and Public Purpose; Authorization to Issue Loans at HOC at Shady Grove, LLC for Acquisition and Construction Financing; Authorization to Issue a Commitment for Permanent Financing; and Authorization for the Borrower to Accept Loans in Accordance with the Finance Plan

Jennifer Arrington, Acting Director of Mortgage Finance, introduced Victoria Dixon, Senior Multifamily Underwriter, who was the presenter.

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 Merkwowitz. Commissioner Simon was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-97

RE: Approval of the Financing Plan, Feasibility and Public Purpose for Shady Grove Apartments; Authorization to Issue Loans to HOC at Shady Grove, LLC for Acquisition and Construction Financing; Authorization to Issue a Commitment for up to \$30.8 Million Mortgage Loan, 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, Shady Grove (the “Property”) is an existing 144-unit income-restricted residential community located at 16125 Crabbs Branch Way, Derwood, Maryland owned by Shady Grove Apartments Limited Partnership (“Seller”); and

WHEREAS, between May 2, 2018 and July 7, 2021, the Commission has approved to retire existing debt, and pay predevelopment, capital improvements, repairs, replacements, and closing costs for the transaction, funded from proceeds of the Opportunity Housing Reserve Fund (“OHRF”) (in the amount of \$350,000) and PNC Real Estate Line of Credit (“PNC RELOC”) (in the amount of \$5,082,448), which is to be repaid from closing of the transaction (the “Development Plan”); and

WHEREAS, the Property currently holds available cash of approximately \$1,828,794 in various accounts, including (i) replacement reserves (\$1,252,965), (ii) operating cash (\$542,019), and (iii) mortgage escrow (\$33,810) (together “Available Property Cash”); and

WHEREAS, the Property will be acquired by a single purpose entity known as HOC at Shady Grove, LLC (“Borrower”), which will be controlled by HOC MM Shady Grove, LLC (“Managing Member”) an entity whose sole member is HOC; and

WHEREAS, the Borrower proposes for all units at the Property to serve households with incomes at or below 50% of the Washington-Arlington-Alexandria, DC-VA-MD-WV Metro Area Median Income (“AMI”), to enjoy rent protection without impairing the LIHTC equity for the development (“Public Purpose”); and

WHEREAS, on July 7, 2021, the Commission approved the selection of Boston Financial Investment Management as the Low Income Housing Tax Credit (“LIHTC”) syndicator and authorized the Executive Director to begin negotiating and execute a Letter of Intent as well as negotiate 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 September 1, 2021, the Commission approved the final development plan totaling \$60.7 million for the Property as an income-restricted community, which included (1) negotiation and execution of an Operating Agreement for admission of an affiliate of the LIHTC syndicator as investor, (2) negotiation and execution of a Purchase and Sale Agreement; (3) approval for Seller to accept a subordinate loan, in an amount up to the purchase price (“Seller Note”); (4) authorization to negotiate and execute a contract with Hamel Builders, Inc. as General Contractor (“GC”) for the renovations in an amount up to \$13.2 million, (4) execution of an Early Start Agreement with the GC not to exceed \$941,330; and, (5) authorization for the Acting Executive Director, or her designee, to execute any and all documents to effectuate the actions contemplated (the “Final Development Plan”); and

WHEREAS, staff explored a variety of options for the estimated \$61 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 \$30,750,000 to fund a mortgage loan for costs of acquisition, rehabilitation, and equipping the Property, which will be credit enhanced by FHA Risk Share Mortgage Insurance (“Mortgage Loan” or “Permanent Loan”); (2) the issuance of taxable bonds in an amount up to \$1,300,000 to fund a bond reserve required under the indenture; (3) LIHTC equity estimated at \$19.3 million; (4) bridge funding during acquisition/ construction by way of draws of approximately \$13.6 million from the OHRF to be repaid from the receipt of LIHTC equity (“Bridge Loan”); a subordinate Seller Loan of approximately \$11.2 million; and (5) deferred developer fee (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 \$19.3 million in equity to pay a portion of its acquisition and development costs; and

WHEREAS, the transaction will require an allocation of a portion of the Commission’s tax-exempt volume cap in an amount not to exceed \$30.8 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 144 units at or below 50% 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 \$30,750,000 for the issuance of short- and long-term bonds to finance the transaction, which shall be subject to available volume cap, 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 38 years to fund development of the Property, which will be subject to conversion to a Permanent Loan phase and balloon payment option at or before year 25.

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 \$30,750,000, 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 50% of the risk while HUD shall assume 50% for the transaction.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County, authorizes funding of a Bridge Loan of approximately \$13.6 million at 0% interest by way of draws from the OHRF, which shall be drawn when needed to bridge the receipt of LIHTC equity and shall be outstanding for no more than five (5) years from the closing date.

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 release net sales proceeds from sale of the Property after repayment of existing debt and intercompany payables, and closing costs, to be funded to the OHRF on an unrestricted basis.

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 release Available Property Cash as follows: (a) funds of the replacement reserves to repay outstandings plus interest of approximately \$922,000 on the RELOC with remaining funds to be deposited to the OHRF, and (b) funds from operating cash and mortgage escrow to be deposited to HOC’s General Operating Reserve.

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, and Bridge Loan 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 Acting Executive Director of HOC, or a duly appointed designee of the Acting 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 Acting Executive Director’s judgment, to carry out the Financing Plan and the transaction and actions contemplated herein.

3. Approval of a Bond Authorizing Resolution Amending and Restating in its Entirety the Bond Authorization Resolution for Willow Manor Properties to Incorporate the Approval of the Issuance of Bonds to Provide Financing for Georgian Court and Shady Grove Apartments

Jennifer Arrington, Acting Director of Mortgage Finance, introduced Victoria Dixon, Senior Multifamily Underwriter, who was the presenter.

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, and Merkwitz. Commissioner Simon was necessarily absent and did not participate in the vote.

RESOLUTION NO.: 21-98

**Re: Approval of a Bond Authorizing
Resolution Amending and Restating in its entirety
the Bond Authorizing Resolution for Willow
Manor Properties to Incorporate the Approval of
the Issuance of Bonds to Provide Financing for
Georgian Court and Shady Grove Apartments**

A RESOLUTION AMENDING AND RESTATING, IN ITS ENTIRETY, THE RESOLUTION 2021-84B OF THE HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY ADOPTED BY THE COMMISSION ON SEPTEMBER 1, 2021; AUTHORIZING THE ISSUANCE AND SALE OF ONE OR MORE SERIES OF THE COMMISSION'S MULTIFAMILY HOUSING DEVELOPMENT BONDS 2021 SERIES C (THE "2021 C BONDS"), IN A TOTAL AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$117,100,000 FOR THE PURPOSE OF FINANCING SEPARATE MORTGAGE LOANS TO BE INSURED UNDER THE FHA RISK-SHARING PROGRAM FOR THE ACQUISITION, REHABILITATION AND EQUIPPING OF (I) THE WILLOW MANOR PROPERTIES, THREE MULTIFAMILY RESIDENTIAL RENTAL PROJECTS FOR OCCUPANCY BY PERSONS OF ELIGIBLE INCOME TO BE OWNED BY HOC AT WILLOW MANOR, LLC; (II) GEORGIAN COURT, A MULTIFAMILY RESIDENTIAL RENTAL PROJECT FOR OCCUPANCY BY PERSONS OF ELIGIBLE INCOME TO BE OWNED BY HOC AT GEORGIAN COURT, LLC; AND (III) SHADY GROVE APARTMENTS, A MULTIFAMILY RESIDENTIAL RENTAL PROJECT FOR OCCUPANCY BY PERSONS OF ELIGIBLE INCOME TO BE OWNED BY HOC AT SHADY GROVE, 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 C BONDS AND THE ACCOMPLISHMENT OF THE FINANCING PLAN DESCRIBED HEREIN; AUTHORIZING THE CHAIRMAN, VICE CHAIRMAN OR CHAIRMAN PRO TEM AND ACTING EXECUTIVE DIRECTOR, EXECUTIVE DIRECTOR OR OTHER AUTHORIZED REPRESENTATIVE TO PROCEED WITH THE SALE OF THE 2021 C BONDS TO BOFA SECURITIES, INC. AND PNC CAPITAL MARKETS LLC, AS CO-SENIOR MANAGERS, AND TO EXECUTE AND DELIVER ONE OR MORE CONTRACTS OF PURCHASE IN CONNECTION WITH SUCH SALE; AUTHORIZING THE ACTING EXECUTIVE DIRECTOR, EXECUTIVE DIRECTOR OR OTHER AUTHORIZED REPRESENTATIVE TO ESTABLISH THE TERMS RELATING TO THE 2021 C BONDS AND TO MAKE ONGOING DETERMINATIONS RELATING THERETO; APPOINTING THE FINANCIAL ADVISOR AND BOND COUNSEL FOR THE 2021 C 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 by the Act and pursuant to the Memorandum of Understanding between the Commission and Montgomery County, Maryland, effective as of June 29, 2018, 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 and/or taxable Multifamily Housing Development Bonds, in such series as shall be designated pursuant to the Series Indenture (as defined herein) (the “2021 C Bonds”) pursuant to the Trust Indenture and one or more series indentures executed and delivered in connection therewith (the “Series Indenture”) § (i) to make moneys available for the acquisition, rehabilitation and equipping of the Willow Manor Properties, consisting of three projects to be financed as a single scattered-site development, to be owned and operated by HOC at Willow Manor, LLC, the managing member of which is controlled by the Commission, (ii) to make moneys available for the acquisition, rehabilitation and equipping of Georgian Court consisting of a project to be owned and operated by HOC at Georgian Court, LLC, the managing member of which is controlled by the Commission, (iii) to make moneys available for the acquisition, rehabilitation and equipping of the Shady Grove Apartments (collectively with the Willow Manor Properties and Georgian Court, the “Developments”), consisting of a project to be owned and operated by HOC at Shady Grove, LLC, the managing member of which is controlled by the Commission, (iv) if necessary, to make a deposit to the Reserve Fund pursuant to the Trust Indenture and the Series Indenture, and (v) to fund the costs of issuance of the 2021 C Bonds in the amount set forth in the Series Indenture and the Tax Documents (as defined herein), all in accordance with the financing plans approved by the Commission in connection with the Willow Manor Properties on September 1, 2021 and in connection with Georgian Court and Shady Grove Apartments on October 6, 2021 (collectively the “Financing Plan”); and

WHEREAS, in connection with the issuance of the 2021 C 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 Contracts of Purchase, the Tax Documents, the Disclosure Agreement and certain other documents relating to the sale of the 2021 C Bonds, and the financing of the Developments; and

WHEREAS, in order to finance Georgian Court and Shady Grove Apartments with the proceeds of the 2021 C Bonds to maximize the economic benefits to the Developments, the Commission has determined to amend and restate Resolution 2021-84B in its entirety in order to authorize the issuance of the 2021 C Bonds to provide financing for the Willow Manor Properties, Georgia Court and Shady Grove;

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

1. **Amendment and Restatement.** This Resolution amends, restates and supersedes, in its entirety, Resolution 2021-84B adopted by the Commission on September 1, 2021. All references made to Resolution 2021-84B in the official records of the Commission shall be deemed to refer to this Resolution.

2. **2021 C Bonds.** The 2021 C Bonds are hereby authorized to be issued in an aggregate principal amount not to exceed \$117,100,000 to carry out the purposes under the Program as described above. The 2021 C Bonds shall be designated as set forth in the recitals hereto, or such additional series or subseries designations as approved by the Acting Executive Director or the Executive Director, as applicable, in consultation with the Financial Advisor and Bond Counsel to the Commission. The 2021 C 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 respective Mortgage Loans made to finance the Willow Manor Properties, Georgian Court and Shady Grove (collectively, the "2021 Mortgage Loan"). Notwithstanding the authority contained in this Section or elsewhere in this Resolution, 2021 C Bond financing for Shady Grove shall be conditioned upon receipt by the Commission of a sufficient allocation of volume cap from the State of Maryland as required under the Internal Revenue Code.

3. **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.

4. **Series Indenture.** The Chairman, the Vice Chairman, or the Chairman Pro Tem, and the Acting Executive Director or the Executive Director, as applicable, of the Commission or any authorized designee of the Acting Executive Director or the Executive Director, as applicable, 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 Representative"), is hereby authorized and directed to affix the seal of the Commission to the Series Indenture and to attest the same.

5. **Tax Documents.** The Chairman, the Vice Chairman, the Chairman Pro Tem and the Acting Executive Director or the Executive Director, as applicable, 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 any tax-exempt 2021 C Bonds and the use and occupancy of the Developments in such forms as shall be prepared by Bond Counsel and approved by the Chairman, the Vice Chairman, the Chairman Pro Tem or the Acting Executive Director or the Executive Director, as applicable, 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 Acting Executive Director or the Executive Director, as applicable, 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 tax-exempt 2021 C Bonds as prepared by Bond Counsel.

6. **Disclosure Agreement.** The Commission hereby authorizes and approves the execution and delivery of a continuing disclosure agreement (the "Disclosure Agreement") related to the 2021 C Bonds, in such form as may be approved by the Chairman, the Vice Chairman or the Chairman Pro Tem and the Acting Executive Director or the Executive Director, as applicable, 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.

7. **2021 C Mortgage Loan; Real Estate Documents.** The Commission hereby authorizes and approves the financing of the 2021 C Mortgage Loan for each Development with the proceeds of the 2021 C 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 each 2021 C Mortgage Loan in an amount not greater than 50% of the outstanding principal balance of each 2021 C 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 Developments, in its capacity as issuer of the 2021 C Bonds and in its capacity as the owner of a membership interest in the managing member of each of HOC at Willow Manor, LLC, HOC at Georgian Court, LLC and HOC at Shady Grove, LLC.

8. **Offering Documents.** The Commission hereby authorizes and approves the preparation and distribution of preliminary offering documents of the Commission and the preparation, execution and distribution of a final offering documents (collectively, the "Offering Documents"), each relating to the 2021 C Bonds, in such forms as may be approved by the Chairman, the Vice Chairman or the Chairman Pro Tem and the Acting Executive Director or the Executive Director, as applicable, 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.

9. **Sale of 2021 C Bonds.** The Chairman, the Vice Chairman, the Chairman Pro Tem, the Acting Executive Director or the Executive Director, as applicable, or other Authorized Representative of the Commission is authorized to proceed with the sale of the 2021 C 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 Acting Executive Director or the Executive Director, as applicable, or other Authorized Representative of the Commission.

10. **Contracts of Purchase.** The Chairman, the Vice Chairman, the Chairman Pro Tem, the Acting Executive Director or the Executive Director, as applicable, or other Authorized Representative of the Commission is authorized to execute one or more contracts of purchase and/or any other form of purchase agreement (the "Contracts of Purchase") in connection with the issuance, purchase and sale of the 2021 C Bonds.

11. **Terms; Ongoing Determinations.** The Acting Executive Director or the Executive Director, as applicable, 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, series designations and other terms, and to approve the interest rates on the 2021 C Bonds, all of the foregoing to be specified in the Series Indenture. The Acting Executive Director or the Executive Director, as applicable, 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 C 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 C Bonds and the 2021 C 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 each 2021 C Mortgage Loan and the refunding and redemption other Bonds, if applicable, and the Acting Executive Director or the Executive Director, as applicable, 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.

12. **Other Action.** The Chairman, the Vice Chairman, the Chairman Pro Tem, the Acting Executive Director or the Executive Director, as applicable, 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 C Bonds and the accomplishment of the Financing Plan.

13. **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 C Bonds.

14. **No Personal Liability.** No stipulation, obligation or agreement herein contained or contained in the 2021 C Bonds, the Series Indenture, the Contracts 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 C Bonds or be subject to personal liability or accountability by reason of the issuance thereof.

15. **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 C 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.

16. **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.

17. **Effective Date.** This Resolution shall take effect immediately.

4. **Upton II:** Approval to Remove Cap of \$6.5MM and Restore the Maximum Bridge Loan of \$12MM Approved from Draws on the PNC Bank, N.A. Real Estate Line of Credit (“RELOC”) for the Upton II Financing

Marcus Ervin, Director of Real Estate, introduced Jay Shepherd, Senior Financial Analyst, who was the presenter.

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

RESOLUTION NO.: 21-99

**RE: Upton II: Approval to Remove Cap
Of \$6.5MM and Restore the Maximum Bridge Loan
of \$12MM Approved from Draws on the PNC Bank,
N.A. Real Estate Line of Credit for the Upton II
Financing**

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

WHEREAS, Upton II is a planned development in Rockville that is entitled by Duball (the “Master Developer”) under current zoning and planning requirements for retail, public parking, and up to 400 apartments, of which HOC and Victory Housing, Inc. will own and operate a condominium unit containing 150 apartments, which will be a mixed-income, age restricted community (the “Property”) and the remaining 250 units will be controlled by the Master Developer or its affiliates; and

WHEREAS, HOC is the sole managing member of HOC MM Upton II, LLC (the “Managing Member”), which in turn is the managing member of HOC at The Upton II, LLC (“Borrower”); and

WHEREAS, on February 6, 2019, the Commission approved Resolution 19-09(2), which authorized taxable draws on the PNC Bank, N.A. Real Estate Line of Credit (“PNC RELOC”) totaling up to \$12,000,000 to bridge the acquisition and construction financing for the Upton II until such time as sufficient Low Income Housing Tax Credit (“LIHTC”) equity contributions are received; and

WHEREAS, the Bridge Loan Promissory Note and Loan Agreement (“Bridge Note”) for \$12,000,000 was executed on February 28, 2019 and included a provision specifying a balance cap of \$6,500,000, assuming the need for the bridge funding would be reduced once the LIHTC equity closed; and

WHEREAS, at the time of the November 2019 LIHTC closing, the \$6.5 million balance cap was too low and, as currently projected, the maximum balance outstanding will be approximately \$9.0 million, occurring just before stabilization and the release of the remaining equity contribution that will fully repay the RELOC.

NOW, THEREFORE, BE IT RESOLVED that the Housing Opportunities Commission of Montgomery County hereby amends the Bridge Note to remove the balance cap of \$6.5 million and allow for up to \$12 million to be drawn from the PNC RELOC as needed to bridge LIHTC equity receipts for the transaction.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County, acting in its own capacity and for and on behalf of the Managing Member and the Borrower, that it authorizes the funds be loaned to the Borrower with interest to accrue and be paid at a rate sufficient to pay the interest cost of the PNC RELOC, and shall remain outstanding for a term of up to 42 months from the Property's first draw and repaid from proceeds of LIHTC equity.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County, acting in its own capacity and for and on behalf of the Managing Member and the Borrower, that the Managing Member and Borrower approve amending the Bridge Note as described in this resolution.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County, acting in its own capacity and for and on behalf of the Managing Member and the Borrower, that the Acting Executive Director of HOC, or her authorized designee, is hereby authorized, without any further action on their respective parts, to execute such documents and to take any and all other actions, in each case as necessary and proper, in the Acting Executive Director’s judgement, to carry out the actions contemplated herein.

VI. ITEMS REQUIRING DELIBERATION AND/OR ACTION

- A. **4527 Avondale Street:** Authorization for the Acting Executive Director to Enter Into a Non-binding Letter of Intent for the Disposition of 4527 Avondale to National Center for Children and Families (NCCF)

Marcus Ervin, Director of Real Estate, was the presenter.

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

RESOLUTION NO.: 21-100

**RE: Authorization to for the Acting Executive Director
Enter into a Non-Binding Letter of Intent for the
Disposition of 4527 Avondale Street, Bethesda**

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, to carry out and effectuate the purpose of providing affordable housing; and

WHEREAS, the Commission acquired four (4) rental apartment buildings consisting of 25-units located at 4500-02, 4504-06, 4508-10 and 4527 Avondale Street, Bethesda, MD 20814 (“Avondale Apartments”) in 2015 under the County’s Right of First Refusal Ordinance (“ROFR”); and

WHEREAS, the Commission wishes to sell 4527 Avondale Street (“4527 Avondale”) to the National Centers for Children and Families (“NCCF”), a Bethesda-based nonprofit dedicated to providing housing to low-income families, many who would otherwise be at risk of homelessness; and

WHEREAS, NCCF wishes to purchase 4527 Avondale for the purpose of providing housing options to households earning at or below 50% AMI in support of the needs of the diverse children, youth, and families it serves; and

WHEREAS, NCCF owns two (2) neighboring rental apartment buildings at 4519 and 4523 Avondale Street, which they use to similar purposes; and

WHEREAS, current rents at 4527 Avondale are unrestricted, but priced at levels similar to the limits of the County’s Moderately Priced Dwelling Unit program; and

WHEREAS, NCCF’s proposed use would deepen the affordability at 4527 Avondale and connect future residents of the units at 4527 Avondale to NCCF’s various supportive services programs; and

WHEREAS, the adjacency of 4527 Avondale to NCCF’s rental apartment buildings at 4519 and 4523 Avondale allows for more expedient operations and economic deployment of services; and

WHEREAS, staff recommends that the Commission authorize the Acting Executive Director to enter into a non-binding letter of intent (“LOI”) with NCCF for the purchase and sale of 4527 Avondale for \$1,225,000, requiring no earnest money deposit, and with a closing date on or before the closing of 4531 Avondale Street.

NOW, THEREFORE, BE IT RESOLVED that the Housing Opportunities Commission of Montgomery County hereby authorizes the Acting Executive Director to enter into a non-binding LOI with NCCF for the purchase and sale of 4527 Avondale for a purchase price of \$1,225,000, requiring no earnest money deposit, and with a closing date on or before the closing of 4531 Avondale Street.

Chair Priest read the Written Closing Statement. Chair Pro Tem Nelson made the motion to close the meeting, Vice Chair Kelleher seconded the motion, with Commissioners Priest, Kelleher, Nelson, Byrd, Croom, and Merkwitz voting in approval. Commissioner Simon was necessarily absent and did not participate in the vote.

Based upon this report and there being no further business to come before this session of the Commission, the Commission adjourned the open session at 5:22 p.m. and reconvened in closed session at 5:38 p.m.

In compliance with Section 3-306(c)(2), General Provisions Article, Maryland Code, the following is a report of the Housing Opportunities Commission of Montgomery County's closed session held on October 6, 2021 at approximately 5:38 p.m. via an online platform and teleconference, with moderator functions occurring at 10400 Detrick Avenue, Kensington, MD 20895. The meeting was closed under the authority of Section 3-305(b)(3) and Section 3-305(b)(13) to discuss (A) the possible acquisition of real property (a single-family home) located in Gaithersburg, Maryland via a purchase and sale agreement (pursuant to Section 3-305(b)(3)); and (B) the confidential commercial and financial information provided to HOC from its financial partners related to HOC's potential purchase of the above referenced property, and the confidential commercial and financial information of HOC's development partner that concern its potential acquisition and financing of the above referenced property (pursuant to Section 3-305(b)(13)).

The meeting was closed and the closing statement dated October 6, 2021 was adopted on a motion made by Richard Y. Nelson, Jr., seconded by Frances Kelleher, with Roy Priest, Frances Kelleher, Richard Y. Nelson, Jr., Pamela Byrd, Linda Croom, and Jeffrey Merkowitz voting in favor of the motion. Commissioner Jackie Simon was necessarily absent and did not participate in the vote. The following persons were present: Roy Priest, Frances Kelleher, Richard Y. Nelson, Jr., Pamela Byrd, Linda Croom, Jeffrey Merkowitz, Kayrine Brown, Aisha Memon, Christina Autin, Zachary Marks, Cornelia Kent, Marcus Ervin, Timothy Goetzinger, Jay Shepherd, Ian-Terrell Hawkins, and Patrice Birdsong.

In closed session, the Commission discussed the below topic and took the following action:

1. **Topic:** The potential acquisition of real property (a single-family home) located in Gaithersburg, Maryland (via a purchase and sale agreement) (pursuant to Section 3-305(b)(3)), the confidential commercial and financial terms of HOC's purchase of the property provided to HOC from its financial partners (pursuant Section 3-305(b)(13)), and the confidential commercial and financial information of HOC's development partner concerning its ability to purchase the property.
 - a. **Action Taken:** With a quorum present, Commissioners Priest, Kelleher, Nelson, Croom, and Merkowitz approved Resolution 21-101AS, thereby (i) affirming the action taken on June 9, 2021 (including HOC potentially entering into a non-binding letter of intent to purchase the property), and (ii) authorizing an additional \$120,000 to be used in the investment of the acquisition of the property (including retiring a mortgage at a nearby property), conditioned on HOC receiving a first lien on both the acquisition property and the nearby property. Commissioner Byrd opposed the action and Commissioner Simon was necessarily absent and did not participate in the vote.

The closed session was adjourned at 6:20 p.m.

Respectfully submitted,

Kayrine Brown
Acting Secretary-Treasurer

/pmb

Approved: November 3, 2021