

**HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY**

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

**Minutes**

September 1, 2021

21-08

The monthly meeting of the Housing Opportunities Commission of Montgomery County was conducted via an online platform and teleconference on Wednesday, September 1, 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  
Jackie Simon

**Also Attending via Teleconference**

Kayrine Brown, Acting Executive Director  
Heather Grendez  
Timothy Goetzinger  
Charnita Jackson  
Christina Autin  
Hyunsuk Choi  
Kathryn Hollister  
Marcus Ervin  
Olutomi Adebo  
Victoria Dixon  
Bonnie Hodge  
Jay Shepherd  
Zachary Marks

Aisha Memon, General Counsel  
Cornelia Kent  
Fred Swan  
Paul Vinciguerra  
Matt Husman  
Darcel Cox  
Lynn Hayes  
Jennifer Arrington  
Eugenia Pascual  
Jay Berkowitz  
Nathan Bovelie  
Claire Kim  
Ian-Terrell Hawkins

**IT Support**

Aries Cruz

**Guest**

Toby Emmerson  
Rian Adamian

**Commission Support**

Patrice Birdsong, Spec. Asst. to the Commission

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

I. **Information Exchange**

**Community Forum**

- Toby Emmerson – Addressed the Board regarding flooding to his property.
- Rian Adamian – Addressed the Board regarding the sale of Westwood Towers/Bethesda African Cemetery Coalition

**Executive Director's Report**

- Kayrine Brown, Acting Executive Director, provided an overview of the written report with respect of acknowledging activities of Resident Services and Mortgage Finance/Real Estate Development.

**Commissioner Exchanged**

- Vice Chair Kelleher provided update on the Executive Director search.

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

- A. **Approval of Minutes of July 7, 2021**
- B. **Approval of Minutes of July 28, 2021 Special Session**
- C. **Approval of Minutes of July 28, 2021 Closed Special Session**

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

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

- 1. **County Fiscal Year 2023-2028 (FY'23-28) Capital Improvements Program Budget:**  
Authorization to Submit County FY'23-28 Capital Improvements Program Budget

Cornelia Kent, Chief Financial Officer, introduced Olutomi Adebo, Assistant Budget Officer, 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, Merkowitz, and Simon.

**RESOLUTION NO.: 21-77**

**Re: Authorization to Submit County FY'23-28  
Capital Improvements Program 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” or the “Commission”) receives funds from the CIP to further its purpose in providing affordable housing;

**WHEREAS** the County Office of Management and Budget is preparing the FY' 23-28 CIP budget, and the Commission must submit a request for both new and renewed funding by September 1, 2021; and

**WHEREAS**, the Commission wishes to request \$86,987,000 which includes: continued funding for current projects in the amount of \$83,782,000, the addition of \$1,250,000 annually for FY'27 and FY'28 for deeply subsidized units, and new funding of \$705,000 for the WSSC Sewer and Storm Line Improvements at Elizabeth Square.

**NOW, THEREFORE, BE IT RESOLVED** that the Housing Opportunities Commission of Montgomery County authorizes the submission to the County of a request that the CIP Budget for FY'23-28 totaling \$86,987,000, which includes continued funding for current projects in the amount of \$83,782,000, the addition of \$1,250,000 annually for FY'27 and FY'28 for deeply subsidized units, and new funding of \$705,000 for the WSSC Sewer and Storm Line Improvements at Elizabeth Square.

2. **Wheaton Gateway, LLC and 8800 Brookville Road (Lyttonsville):** Approval to Extend the Maturity Dates for the Draws on the PNC Bank Line of Credit Which Financed the Acquisition of Lindsay Ford (Wheaton Gateway) and the Lyttonsville Site (8800 Brookville Road)

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 Vice Chair Kelleher. Affirmative votes were cast by Commissioners Priest, Kelleher, Nelson, Byrd, Croom, Merkwowitz, and Simon.

**RESOLUTION NO.: 21-78**

**RE: Approval to Extend the Maturity Dates for the Draws on the PNC Bank, N. A. Line of Credit ("PNC Bank LOC") which Financed Acquisition of Lindsay Ford (Wheaton Gateway) and Lyttonsville (8800 Brookville Road)**

**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 ("PNC Bank LOC") to fund the acquisition of the Lindsay Ford Holding Site (Wheaton Gateway), costs related to the acquisition, and reimbursement of costs incurred by the Commission related to title and earnest money deposits;

**WHEREAS**, on November 7, 2018, HOC authorized a taxable draw of up to \$10,850,000 from the PNC Bank LOC to fund the acquisition of the approximately 10 acres at 8800 Brookville Road in Silver Spring;

**WHEREAS**, as of July 31, 2021, the actual draw on the PNC Bank LOC was \$11,530,881 for the Lindsay Ford Holding Site (Wheaton Gateway), and \$10,850,000 for the 10 acres at 8800 Brookville Road in Silver Spring (the "Loans");

**WHEREAS**, staff recommends extending the maturity date of the Loans through June 30, 2022 at the PNC Bank LOC contractual rate with PNC Bank, N.A.; and

**WHEREAS**, the estimated cost, as of July 31, 2021, under the PNC Bank LOC is expected to be approximately \$224,368.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that it hereby approves extending through June 30, 2022 the maturity dates for the draws on the PNC Bank LOC, which financed acquisition of Lindsay Ford (Wheaton Gateway) and Lyttonsville (8800 Brookville Road).

**3. Spring Garden One Associates Limited Partnership – Property Management Contract:**  
Presentation of Request to Renew the Property Management Contract for Spring Garden One Associates Limited Partnership

Jay Berkowitz, Asset Manager – Property Management Division, 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, Merkwitz, and Simon.

**RESOLUTION NO.: 21-79**

**RE: Approval to Renew Property Management Contract for Spring Garden One Associates Limited Partnership**

**WHEREAS**, the Housing Opportunities Commission of Montgomery County (“HOC”) is the general partner of Spring Garden One Associates Limited Partnership (“Spring Garden LP”), and Spring Garden LP owns the development known as Spring Garden located in Silver Spring, Maryland (“Spring Garden”); and

**WHEREAS**, staff desires to renew the current property management contract at Spring Garden for one (1) year with Edgewood Management.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County, acting for itself and on behalf of Spring Garden One Associates Limited Partnership, as its general partner, that the Executive Director (including the Acting Executive Director) is hereby authorized and directed to execute a one (1) year renewal of the property management contact at Spring Garden.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County that the Executive Director (including the Acting Executive Director), or her 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.

**4. The Willow Manor Properties – Property Management Contract:** Presentation of Request to Renew the Property Management Contract for The Manor at Clopper’s Mill, LLC, The Manor at Colesville, LLC, and The Manor at Fair Hill Farm, LLC

Jay Berkowitz, Asset Manager – Property Management Division, 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, Merkwitz, and Simon.

**RESOLUTION NO.: 21-80**

**RE: Approval to Renew Property Management Contract for The Manor at Clopper’s Mill, LLC, The Manor at Colesville, LLC and The Manor at Fair Hill Farm, LLC**

**WHEREAS**, HOC is the sole member of The Manor at Fair Hill Farm, LLC, which owns the development known as The Manor at Fair Hill Farm (“Fair Hill Farm”); and

**WHEREAS**, HOC is the sole member of The Manor at Colesville, LLC, which owns the development known as The Manor at Colesville (“Colesville”); and

**WHEREAS**, HOC is the sole member of The Manor at Clopper’s Mill, LLC, which owns the development known as The Manor at Cloppers Mill (“Cloppers Mill”); and

**WHEREAS**, staff desires to renew the current property management contract at Fair Hill Farm, Colesville, and Cloppers Mill for one (1) year with Habitat America, LLC.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County, acting for itself and as the sole member of The Manor at Fair Hill Farm, LLC, that the Executive Director (including the Acting Executive Director) is hereby authorized and directed to execute a one (1) year renewal of the property management contract at Fair Hill Farm with Habitat America, LLC.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County, acting for itself and as the sole member of The Manor at Colesville, LLC, that the Executive Director (including the Acting Executive Director) is hereby authorized and directed to execute a one (1) year renewal of the property management contract at Colesville with Habitat America, LLC.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County, acting for itself and as the sole member of The Manor at Clopper’s Mill, LLC, that the Executive Director (including the Acting Executive Director) is hereby authorized and directed to execute a one (1) year renewal of the property management contract at Cloppers Mill with Habitat America, LLC.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County that the Executive Director (including the Acting Executive Director), or her 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. Mortgage Finance:** Approval to Renew the Contracts of the Underwriting Team Consisting of a Senior Manager, Co-Senior Manager, and Co-Managers in Accordance with the Current Contracts and the Procurement Policy

Jennifer Arrington, Acting Director of Mortgage Finance, was the presenter.

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

**RESOLUTION NO.: 21-81**

**RE: Approval to Renew the Contracts of the Underwriting Team Consisting of a Senior Manager, Co-Senior Manager, and Co-Managers in Accordance with the Current Contracts and the Procurement Policy**

**WHEREAS**, to advance its mission and operate a successful bond financing program, the Housing Opportunities Commission of Montgomery County (the "Commission" or "HOC") engages the services of a number of industry professionals, including a team of investment banking firms (Underwriters) to help structure HOC's bond issuances and market the bonds to obtain the most favorable pricing; and

**WHEREAS**, on January 9, 2019, after completing a new procurement for Underwriter services, the Commission selected eight firms, approved a structure that consists of a Senior Manager, a Co-Senior Manager, and six (6) Co-Managers, and authorized the Executive Director to execute Letter Agreements ("Contracts") with each firm with initial terms of two (2) years with two (2) one-year renewals that must be approved by the Commission in accordance with provisions of the Procurement Policy; and

**WHEREAS**, the eight (8) firms were Bank of America Merrill Lynch, Citigroup Global Markets, Jefferies, LLC, Morgan Stanley, PNC Capital Markets, LLC, RBC Capital Markets, Wells Fargo Company, and M&T Securities, but Citigroup did not finalize its Contract and is no longer eligible to join the team, and M&T Securities terminated its Contract, having exited the long-term fixed rate municipal business as of July 1, 2020, leaving six (6) active underwriting firms on the team; and

**WHEREAS**, on September 9, 2020, the Commission approved the first one-year renewal for the six (6) Underwriters, which expires in January 2022; and

**WHEREAS**, all firms continue to perform satisfactorily and are positioned to meet the Commission's upcoming issuance needs, and the Commission wishes to extend each Contract for one year, representing the second and final renewal, which will extend the contract through January 2023.

**NOW, THEREFORE, BE IT RESOLVED** that the Housing Opportunities Commission of Montgomery County approves the final one-year renewal of each of the Contracts with the following six (6) Underwriters (with the structure unchanged and incorporating the terms of the original Contracts):

|                   |  |
|-------------------|--|
| Senior Manager:   | Bank of America Merrill Lynch, New York NY |
| Co-Senior Manager | PNC Capital Markets, LLC, Pittsburgh, PA   |
| Co-Managers:      | Jefferies LLC, New York, NY                |
|                   | Morgan Stanley, New York, NY               |
|                   | RBC Capital Markets, New York, NY          |
|                   | Wells Fargo Company, San Francisco, CA     |

**BE IT FURTHER RESOLVED** that the Housing Opportunities Commission of Montgomery County authorizes the Acting Executive Director, or her designee, without any further action on its part, to execute such other documents 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 actions contemplated herein.

- 2. Westside Shady Grove Building D:** Approval to Select Kim Engineering, Inc. for Construction Materials Testing and Third-Party Inspector and Authorization for the Acting Executive Director to Execute a Contract in Accordance with Request for Proposal #2265

Marcus Ervin, Acting Director of Development, introduced Paul Vinciguerra, Construction Manager, who was the presenter.

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

**RESOLUTION NO.: 21-82**

**RE: Approval to Select Kim Engineering Inc., Inc. for Construction Materials Testing and Third-Party Inspector and Authorization for the Acting Executive Director to Execute a Contract in Accordance with Request for Proposal # 2265**

**WHEREAS**, Westside Shady Grove Building D is currently under construction and will be a 268-unit mixed use apartment building with 21,000 square feet of retail space and serve as the Housing Opportunities Commission of Montgomery County's (the "Commission" or "HOC") Up-County Customer Service Center in the Westside Shady Grove area of Rockville, MD; and

**WHEREAS**, Westside at Shady Grove Building D is owned by HOC at Westside Shady Grove LLC ("Owner"), which is ultimately controlled by the Commission; and

**WHEREAS**, on May 8, 2019, the Commission approved the Westside at Shady Grove Building D final development budget, which included construction materials testing and third-party inspection fees; and

**WHEREAS**, third-party testing of construction materials is integral to quality assurance and control for new construction, and testing of building materials (such as concrete) is required both by the Montgomery County Department of Permitting Services and the Montgomery County building code; and

**WHEREAS**, staff issued a Request for Proposal #2265 (the "RFP") for construction materials testing and third-party inspections for Westside at Shady Grove Building D on May 19, 2021 in accordance with HOC's Procurement Policy; and

**WHEREAS**, staff received three (3) proposals in response to the RFP (Hillis-Carnes Engineering Associates, Inc.; Stratified Engineering Inc.; and Kim Engineering Inc.) from which staff selected Kim Engineering Inc. the highest scoring firm based on the established selection criteria in the RFP; and

**WHEREAS**, the Commission wishes to approve the selection of Kim Engineering Inc. as the construction materials testing and third-party inspector for Westside at Shady Grove Building D.

**NOW, THEREFORE, BE IT RESOLVED**, that the Housing Opportunities Commission of Montgomery County, on behalf of itself and on behalf of Owner as its ultimate managing member, hereby approves the selection of Kim Engineering, Inc. as the construction materials testing and third-party inspector for Westside at Shady Grove Building D.

**BE IT FURTHER RESOLVED**, that the Housing Opportunities Commission of Montgomery County, on behalf of itself and on behalf of Owner as its ultimate managing member, hereby authorizes the Acting Executive Director of the Commission, or her designee, to execute a contract with Kim Engineering Inc. for \$336,385.00.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County that the Acting Executive Director, or her designee, is authorized to take any and all other actions necessary and proper to carry out the transaction and actions contemplated herein including the execution of any documents related thereto.

- 3. Willow Manor Properties:** Approval of a Final Development Plan, Including the Approval and Acceptance of a Seller Note and Bridge Financing for the Transaction, and Approval to Execute a Contract and Early Start Agreement with Nastos Construction, Inc.

Kathryn Hollister, Senior Financial Analyst, was the presenter.

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, Merkowitz, and Simon.

**RESOLUTION NO.: 21-83a**

**RE: Approval of a Final Development Plan, Including the Approval and Acceptance of a Seller Note and Bridge Financing for the Transaction, and Approval to Execute a Contract and Early Start Agreement with Nastos Construction, Inc.**

**WHEREAS**, the Housing Opportunities Commission of Montgomery County (“HOC” or “Commission”) is the sole member of three individual single-purpose entities: The Manor at Cloppers Mill, LLC, The Manor at Fair Hill Farm, LLC, and The Manor at Colesville, LLC (collectively the “Willow Manor Single-Purpose Entities”), which own Willow Manor at Clopper’s Mill, Willow Manor at Fair Hill Farm, and Willow Manor at Colesville, respectively; and

**WHEREAS**, Willow Manor at Clopper’s Mill consists of 102 age-restricted Low Income Housing Tax Credit (“LIHTC”) and market-rate apartments in Germantown, MD (“Clopper’s Mill”), Willow Manor at Fair Hill Farm consists of 101 age-restricted LIHTC apartments in Olney, MD (“Fair Hill Farm”), and Willow Manor at Colesville consists of 83 age-restricted LIHTC apartments in Silver Spring, MD (“Colesville”) (collectively, the “Willow Manor Properties” or “Properties”); and

**WHEREAS**, on April 1, 2020 the Commission approved pursuing a Low Income Housing Tax Credit (“LIHTC”) resyndication and renovation of the Properties as a single scattered site transaction (“Transaction”); and



**WHEREAS**, in April, 2021, the Commission authorized (1) the selection of Nastos Construction, Inc. as the General Contractor (“GC”) and for the Executive Director to negotiate a GC contract; (2) holding up to 20 units vacant (7% vacancy) to facilitate the renovation phasing; and (3) restricting Clopper’s Mill’s 20 market-rate units to households earning at or below 80% AMI and utilizing the Income Averaging set aside to comply with the requirement that 100% of scattered site LIHTC units must be restricted; and

**WHEREAS**, in July, 2021, the Commission approved (1) the selection of PNC Bank, N.A. (“PNC”) as the tax credit syndicator for the Willow Manor Properties; (2) the Executive Director to negotiate and execute a letter of intent outlining the terms of an operating agreement (“Operating Agreement”); and (3) the ratification of wholly-owned special purpose entities, HOC at Willow Manor, LLC and HOC MM Willow Manor, LLC, to serve as the new owner (“Owner”) and managing member (“Managing Member”) entities, respectively, for the Transaction; and

**WHEREAS**, the Commission desires to (1) approve the final development plan for the Transaction, as presented at the September 1, 2021 meeting of the Commission (“Final Development Plan”), and (2) authorize the Acting Executive Director to execute a purchase and sale agreement between the Willow Manor Single-Purpose Entities and Owner, and complete the purchase and sale of the Properties; and

**WHEREAS**, the Commission desires to authorize the Acting Executive Director to enter into an Operating Agreement with PNC and grant its permission to admit PNC, or PNC affiliate(s), as the tax credit investor and non-managing limited member and special limited members of the Owner; and

**WHEREAS**, the Commission desires to authorize staff to negotiate with Montgomery County Department of Housing and Community Affairs (“DHCA”) to consolidate, refinance and resubordinate the outstanding amount of the Properties’ three existing Housing Initiative Fund (“HIF”) loans at closing, and for the Owner to accept the consolidated HIF loan; and

**WHEREAS**, the Commission desires to authorize the Willow Manor Single-Purpose Entities to provide all of its anticipated sale proceeds from the sale of the Properties as a source for the Transaction in the form of a subordinate seller note (“Seller Note”), bearing interest at a rate equivalent to or greater than the long term Applicable Federal Rate, and authorize the Owner to accept the Seller Note; and

**WHEREAS**, the Commission desires to provide a bridge loan (“Bridge Loan”) to the Owner in an amount up to \$22,000,000, funded by way of proceeds from HOC’s PNC Real Estate Line of Credit, for a term of up to 42 months, and to authorize Owner to accept the Bridge Loan; and

**WHEREAS**, the Commission desires to release the Properties’ existing available property cash and cash equivalents to HOC’s General Fund at closing, and to release the Properties’ existing debt service reserves to HOC’s FHA Risk Share/MIP Cash Reserves at closing; and

**WHEREAS**, the Commission desires to close the Transaction; and

**WHEREAS**, the Commission desires to (1) authorize the Acting Executive Director to execute a Guaranteed Maximum Price (“GMP”) contract with Nastos Construction, Inc. (“Nastos”) in an amount not to exceed \$16,500,000, and (2) to execute an early start agreement (“Early Start”) with Nastos for an amount not to exceed \$1,600,000, and approve the use of the Opportunity Housing Development Fund as a source for the Early Start in the event the Transaction’s closing is delayed or does not occur; and

**WHEREAS**, the Commission desires to hold up to 29 vacant units (a 10% vacancy) at the Properties, an increase of nine units over the Commission's prior approval of 20 vacant units, to facilitate renovation phasing and temporary relocation for residents at the Properties; and

**WHEREAS**, the Commission currently intends and reasonably expects to participate in tax-exempt borrowings to refinance the acquisition cost, finance certain property improvements, and fund reserves for the Willow Manor Properties in an amount not to exceed \$100,000,000, all or a portion of which may reimburse the Commission for the portion of such 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 expenditures or the date that the Willow Manor Properties are placed in service as part of the LIHTC resyndication (but in no event more than 3 years after the date of the original expenditure of such moneys); and

**WHEREAS**, the Commission hereby desires to declare its official intent, pursuant to Treasury Regulation §1.150-2, to reimburse the Commission for such 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, acting on behalf of itself and on behalf of the Willow Manor Single-Purpose Entities (as the sole member of each entity), the Managing Member (as its sole member), and Owner (as the sole member of its managing member) authorizes the following:

- 1) the Final Development Plan for the Transaction;
- 2) the Acting Executive Director to execute a purchase and sale agreement between the Willow Manor Single-Purpose Entities and Owner, and complete the purchase and sale of the Properties;
- 3) the Acting Executive Director to enter into an Operating Agreement with PNC and permission to admit PNC, or PNC affiliate(s), as the tax credit investor and non-managing member and special limited members of the Owner;
- 4) staff to negotiate with DHCA to consolidate, refinance and resubordinate the outstanding amount of the Properties' three existing HIF loans at closing, and for the Owner to accept the consolidated HIF loan;
- 5) the Willow Manor Single-Purpose Entities to provide the Seller Note, bearing interest at a rate equivalent to or greater than the long term Applicable Federal Rate, to the Owner and authorize the Owner to accept the Seller Note;
- 6) HOC to provide a Bridge Loan to the Owner in an amount up to \$22,000,000, funded by way of proceeds from HOC's PNC Real Estate Line of Credit, for a term of up to 42 months, and to authorize Owner to accept the Bridge Loan;

- 7) the release of the Properties' existing available property cash and cash equivalents to HOC's General Fund at closing;
- 8) the release of the Properties' existing debt service reserves to HOC's FHA Risk Share/MIP Cash Reserves at closing;
- 9) the closing of the Transaction;
- 10) the Acting Executive Director to execute a GMP contract with Nastos in an amount not to exceed \$16,500,000;
- 11) the Acting Executive Director to execute an Early Start with Nastos for an amount not to exceed \$1,600,000;
- 12) obligating \$1,600,000 in funds from the Opportunity Housing Development Fund as the source for the Early Start in the event the Transaction's closing is delayed or does not occur, with any unused amounts released once the Transaction is closed; and
- 13) holding up to 29 vacant units (a 10% vacancy) at the Properties, an increase of nine units over the Commission's prior approval of 20 vacant units, to facilitate renovation phasing and temporary relocation for residents at the Properties.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County that it 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 Willow Manor Properties.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County that it presently intends and reasonably expects to refinance the acquisition cost, finance certain property improvements, and fund reserves for the Willow Manor Properties from the proceeds of a tax-exempt bond issuance and that all of the acquisition and financing expenditures covered by this Resolution which may be reimbursed with proceeds of tax-exempt borrowings were made not earlier than 60 days prior to the date of this Resolution, except preliminary expenditures related to the project as defined in Treasury Regulation Section 1.150-2(f)(2) (e.g. architect's fees, engineering fees, costs of soil testing and surveying).

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County that 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 LIHTC resyndication and renovation of the Willow Manor Properties, shall be and hereby are in all respects ratified, approved and confirmed.

**BE IT FURTHER RESOLVED** that the Housing Opportunities Commission Montgomery County, acting on behalf of itself and on behalf of the Willow Manor Single-Purpose Entities (as the sole member of each entity), the Managing Member (as its sole member), and Owner (as the sole member of its managing member), authorizes the Acting Executive Director of HOC, or her 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, including the execution of any documents related thereto.

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

**RESOLUTION NO.: 21-83b**

**RE: Approval to Draw up to \$22,000,000 on the PNC Bank, N.A. Real Estate Line of Credit to Provide Bridge Financing for the Renovation of the Willow Manor Properties**

**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 rehabilitation of rental housing properties which provide a public purpose; and

**WHEREAS**, HOC is preparing to renovate three senior multifamily communities: (1) Willow Manor at Clopper’s Mill in Germantown, MD, (2) Willow Manor at Fair Hill Farm in Olney, MD, and (3) Willow Manor at Colesville in Silver Spring, MD (collectively, the “Willow Manor Properties” or “Properties”); and

**WHEREAS**, HOC intends to finance the renovation using equity proceeds from the Properties’ Low Income Housing Tax Credit resyndication (“LIHTC Equity”) in an anticipated amount of \$29,600,000;

**WHEREAS**, due to the timing of LIHTC Equity installments, HOC intends to provide a bridge loan (“Bridge Loan”) to finance the renovation until all LIHTC Equity is received, which will be funded by way of proceeds from a taxable draw on its PNC Bank N.A. Real Estate Line of Credit (“RELOC”) of up to \$22,000,000.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that it authorizes taxable draws on the RELOC in an amount not to exceed \$22,000,000 for the renovation of the Willow Manor Properties for a term of up to 42 months.

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

- 4. Willow Manor:** Approval of the Financing Plan, Feasibility and Public Purpose for Willow Manor Properties; Authorization to Issue Loans to HOC at Willow Manor, 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

Victoria Dixon, Senior Multifamily Underwriter, was the presenter.

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

**RESOLUTION NO.: 21-84A**

**RE: Approval of the Financing Plan, Feasibility and Public Purpose for the Willow Manor Properties; Authorization to Issue Loans to HOC at Willow Manor, LLC for Acquisition and Construction Financing; Authorization to Issue a Commitment for up to \$55 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**, HOC is the sole member of three individual single-purpose entities: The Manor at Cloppers Mill, LLC, The Manor at Fair Hill Farm, LLC, and The Manor at Colesville, LLC (collectively the “Seller”), which own the properties known as Willow Manor at Clopper’s Mill, Willow Manor at Fair Hill Far, and Willow Manor at Colesville (collectively the “Properties”); and

**WHEREAS**, Willow Manor at Clopper’s Mill consists of 102 age- and income-restricted units Germantown, MD, Willow Manor at Fair Hill consists of 101 age- and income-restricted units in Olney, MD, and Willow Manor at Colesville consists of 83 age- and income-restricted units in Silver Spring, MD; and

**WHEREAS**, on October 3, 2018, the Commission approved (a) acquisition of the Properties under the County’s Right of First Refusal Ordinance, and (b) a Financing Plan including acceptance of a first mortgage loan from PNC Bank, N.A. and subordinate debt from the Montgomery County’s Department of Housing and Community Affairs to complete the acquisition; and

**WHEREAS**, on July 7, 2021, the Commission ratified formation of wholly-owned special purpose entities known as HOC at Willow Manor, LLC (“Borrower”) and HOC MM Willow Manor, LLC (“Managing Member”), approved the selection of PNC Bank 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 for the transaction; and

**WHEREAS**, the Properties will be acquired by the Borrower, which will be controlled by Managing Member, whose sole member is HOC; and

**WHEREAS**, the Borrower proposes to serve seniors (aged 62+) across a wide income range through implementation of income averaging component of the LIHTC program, which allows households with

incomes from 40% up to 80% 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**, existing debt of the Seller from PNC Bank N.A. and Montgomery County, are to be repaid or resubordinated in closing of the transaction; and

**WHEREAS**, between September 5, 2018 and July 7, 2021, the Commission has approved a loan of up to \$1,961,200 to the Seller to pay predevelopment and closing costs on the Properties, funded from proceeds of the Opportunity Housing Reserve Fund and FHA Risk Sharing/MIP Cash Reserve, which is to be repaid from closing of the transaction; and

**WHEREAS**, on September 1, 2021, the Commission approved the Final Development Plan totaling approximately \$99.5 million for the Properties as a 286-unit, age and income restricted scattered site, which included but not limited to (1) authorization to negotiate and close on a new subordinate loan with the County (“County Loan”), (2) authorization to execute a Purchase and Sale Agreement between the Seller and Borrower; (3) Seller’s authorization to accept all or some of the purchase price for sale of the Properties to be provided in the form of a subordinate note (“Seller Note”); (4) authorization to enter into an Operating Agreement and admit PNC Bank, N.A. or PNC affiliate(s) as the new LIHTC investor, (5) authorization for HOC to provide an unsecured loan to bridge the receipt of LIHTC equity proceeds (“Bridge Loan”), funded from draw proceeds on the Commission’s real estate line of credit with PNC Bank N.A., in an amount not to exceed \$22 million (6) authorization to close on the LIHTC transaction; (7) authorization to execute the general contractor contract and early start agreement with Nastos Construction; and (8) approval to hold up to 29 units vacant to facilitate renovations at the Properties; 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 \$29.6 million in equity to pay part of its acquisition and development costs; and

**WHEREAS**, staff explored a variety of options for the estimated \$99.5 million acquisition, rehabilitation and permanent financing for the Properties, together as a scattered site, and determined to use a number of sources including: (1) the issuance of tax-exempt private activity bonds and taxable bonds in an amount up to \$55 million to fund a loan for the costs of acquisition, rehabilitation, and equipping the Properties, enhanced by FHA Risk Sharing (“Mortgage Loan” or “Permanent Loan”) and a bond reserve (“Indenture Bond Reserve”); (2) LIHTC equity; (3) the Bridge Loan to be provided from HOC, (4) a subordinate County Loan of approximately \$13.7 million, funded from previously contributed sources to the Properties; and (5) a subordinate Seller Note of approximately \$9 million or up to the acquisition price (collectively, the “Financing Plan”); and

**WHEREAS**, the Properties will require an allocation of a portion of the Commission’s tax-exempt volume cap in an amount not to exceed \$48 million; and

**WHEREAS**, a review of the transaction has been completed and it has been determined that given the financial commitments to the Properties and its operating projections, this transaction is feasible (“Feasibility”), and the Properties will provide significant public purpose supporting an allocation of tax-exempt volume cap.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that the Financing Plan, Feasibility, and Public Purpose, are 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 (a) the allocation of tax-exempt volume cap in an amount not to exceed \$48,000,000, and (b) the issuance of tax-exempt private activity bonds and taxable bonds to finance the transaction and for the Commission, as conduit lender, to use those bond proceeds to make a Mortgage Loan to Borrower with a maximum term of up to 43 years (three years of construction and 40 years of permanent financing), to fund development of the Properties with a balloon payment option in 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 \$55,000,000, 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 authorizes obtaining a waiver from FHA for issuance of bonds and the Mortgage Loan with a 25-year balloon payment, if necessary to adjust for interest rate conditions to maintain economics of the transaction at the time of closing.

**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 and Permanent Loan for the financing 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, 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 Executive Director’s judgment, to carry out the Financing Plan and the transaction and actions contemplated herein.

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**RESOLUTION NO.: 2021-84B**

**Re: Adoption of an Authorizing Resolution for the Issuance of 2021 Series C Multifamily Housing Development Bonds, in one or more series, for the Financing of the Acquisition and Rehabilitation of the Willow Manor Properties Development**

**A RESOLUTION 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 \$55,000,000 FOR THE PURPOSE OF FINANCING A**

**MORTGAGE LOAN TO BE INSURED UNDER THE FHA RISK-SHARING PROGRAM FOR THE ACQUISITION, REHABILITATION AND EQUIPPING OF 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; 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 A CONTRACT 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 Multifamily Housing Development Bonds, 2021 Series C-1 (the "2021 C-1 Bonds") and its taxable Multifamily Housing Development Bonds, 2021 Series C-2 (the "2021 C-2 Bonds," and together with the 2021 C-1 Bonds, the "2021 C Bonds") pursuant to the Trust Indenture and the Series Indenture Providing for the Issuance of Multifamily Housing Development Bonds, 2021 Series C-1 and 2021 Series C-2 (the "2021 C 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 (the "Development"), to be owned and operated by HOC at Willow Manor, 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 C Series Indenture, and (iii) to fund the costs of issuance of the 2021 C Bonds in the amount set forth in the 2021 C Series Indenture and the Tax Documents (as defined herein), all in accordance with the financing plan approved by the Commission in connection with the Development on September 1, 2021 (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 Contract 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 Development;

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

1. **2021 C Bonds.** The 2021 C Bonds are hereby authorized to be issued in an aggregate principal amount not to exceed \$55,000,000 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 2021 C 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 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.

4. **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 the 2021 C-1 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 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 2021 C-1 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 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.

6. **2021 C Mortgage Loan; Real Estate Documents.** The Commission hereby authorizes and approves the financing of the 2021 C Mortgage Loan 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 the 2021 C Mortgage Loan in an amount not greater than 25% of the outstanding principal balance of the 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 Development, 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 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 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.

8. **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.

9. **Contract 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 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 C Bonds.

10. **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 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 the 2021 C Mortgage Loan and the refunding and redemption of the 2021 C Bonds and/or other Bonds, 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.

11. **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.

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 C Bonds.

13. **No Personal Liability.** No stipulation, obligation or agreement herein contained or contained in the 2021 C 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 C 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 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.

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. The Upton II: Approval for the Acting Executive Director to Execute Change Order to Continue CFI Construction for Construction Management Services**

Jay Shepherd, Senior Financial Analyst, was the presenter.

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

**RESOLUTION NO.: 21-85**

**RE: Upton II: Approval for The Acting Executive Director to Execute Change Order to Continue Construction Management Services**

**WHEREAS**, on January 9, 2019 the Housing Opportunities Commission of Montgomery County (“HOC” or the “Commission”) approved the Final Development Plan for Upton II and construction started in April 2019; and

**WHEREAS**, HOC is the managing member of HOC MM Upton II, LLC, which is the managing member of HOC at the Upton II, LLC (“Owner”), the owner of Upton II; and

**WHEREAS**, on May 10, 2019, the Commission approved the selection of CFI Construction Corporation (“CFI”) as construction manager for the project and CFI was awarded a contract in the amount of \$249,000; and

**WHEREAS**, on November 19, 2019, an affiliate of Wells Fargo provided LIHTC equity to the Owner with equity credits predicated on delivery of ninety (90) unit lease signings and occupancy by December 31, 2021; and

**WHEREAS**, to ensure the efficient and timely execution of the development plan and delivery of equity credits, staff proposes an expanded role for CFI and approval of a change order to their contract to augment staff resources to handle construction management services for the delivery of units to protect the Commission’s interests and to ensure the on-time delivery of the newly-built units.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County, on behalf of itself and as the ultimate managing member of Owner, that it hereby approves a change order to the CFI contract up to \$150,000 (bringing their aggregate contract amount to \$399,000) to provide continuing services for construction management at Upton II through completion, and authorizes the Acting Executive Director, or her designee, to execute such change order to be funded from the Upton II development budget.

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

6. **Georgian Court:** Approval of the Final Development Plan and Budget for Georgian Court Apartments and Authorization for the Acting Executive Director to Execute the General Contractor Contract with Hamel Builders, Inc.

Marcus Ervin, Acting Director of Development, introduced Hyunsuk Choi, Senior Financial Analyst, who was the presenter.

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, Merkwitz, and Simon.

**RESOLUTION NO.: 21-86**

**RE: Approval of Final Development Plan, Admission of Investor Member, Authorization for the Acting Executive Director to Execute a Purchase and Sale Agreement and Close on the Purchase and Sale of the Property, Approval to Execute a Contract and Early Start Agreement with Hamel Builders, Inc., and to Execute an Operating Agreement and General Contractor Contract for the Georgian Court Apartments**

**WHEREAS**, the Housing Opportunities Commission of Montgomery County (“HOC” or “Commission”) is the general partner of Georgian Court Silver Spring Limited Partnership (“Seller”), the current owner of Georgian Court Apartments (the “Property”); and

**WHEREAS**, the Property was originally constructed in 1976 and is a 147-unit Low Income Housing Tax Credit (“LIHTC”) and a former Section 236 of the National Housing Act with a Housing Assistance Payment Contract that consists of 49 one-bedroom and 98 two-bedroom units; and

**WHEREAS**, the Property is currently operating under an extended-use covenant, which requires the following set asides: 29 units (Project-Based Section 8 rental assistance) set aside at 50% of area median income (“AMI”), and 118 units set aside at 60% of AMI; and

**WHEREAS**, in June 2021, the Commission approved (i) the selection of Hamel Builders, Inc. (“Hamel”) as general contractor for the renovation of the Property, (ii) the request to create a maximum of 24-vacant units at the Property by allowing staff to freeze leasing and temporarily relocate residents off-site to facilitate

the renovation schedule, (iii) an increase of \$500,000 to the existing predevelopment budget to be funded with a loan from the PNC Bank, N.A. Real Estate Line of Credit, and (iv) ratified the formation of wholly-owned special purpose entities, HOC at Georgian Court, LLC (“HOC at Georgian Court”) and HOC MM Georgian Court, LLC (“HOC MM Georgian Court”), to serve as the new Property owner and managing member entities, respectively; and

**WHEREAS**, staff has prepared the Final Development Plan for the Property identifying a total development cost of approximately \$72.3 million to be funded with the proceeds of HOC-issued tax-exempt bonds enhanced by FHA Risk Share mortgage insurance, HOC-issued short-term tax-exempt bonds, 4% LIHTC equity, residual receipts reserve, deferred developer’s fee, a seller note, and the preservation of affordability for 29 units set aside at 50% of AMI and 118 units set aside at 60% AMI (the “Final Development Plan”); and

**WHEREAS**, staff will return to the Commission at a later date to seek its approval of the final financing plan which, in addition to tax-exempt and LIHTC equity funding, will include a request to approve a loan that bridges the funding of LIHTC equity; and

**WHEREAS**, HOC intends to negotiate an Operating Agreement with a tax credit investor affiliate of Boston Financial (the “Investor”) for the admission of the Investor as a non-managing investor member of HOC at Georgian Court with a 99.99% interest; and

**WHEREAS**, the Commission desires to authorize the Acting Executive Director to (1) execute a general contractor contract with Hamel in an amount not to exceed \$13.6 million, and (2) execute an Early Start Contract not to exceed \$941,330 to allow Hamel to execute an agreement with subcontractors and suppliers as Hamel works to lock-in pricing, prior to the final construction closing projected in November 2021.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that the Final Development Plan for the Property is hereby approved.

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

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

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

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County acting on behalf of itself and on behalf of HOC MM Georgian Court, as its sole member, acting on behalf of itself and on behalf of HOC at Georgian Court, as its managing member, that it approves the negotiation and execution of a general contractor contract with Hamel for an amount not to exceed \$13.6 million for the renovation of the Property.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County acting on behalf of itself and on behalf of HOC MM Georgian Court, as its sole member, acting on behalf of itself and on behalf of HOC at Georgian Court, as its managing member, that it approves the authorization and execution an Early Start Contract not to exceed \$941,330 to allow Hamel to execute an agreement with subcontractors and suppliers as Hamel works to lock-in pricing, prior to the final construction closing projected in November 2021.

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

- 7. Shady Grove:** Approval of the Final Development Plan and Budget for Shady Grove Apartments and Authorization for the Acting Executive Director to Execute the General Contractor Contract with Hamel Builders, Inc.

Marcus Ervin, Acting Director of Development, introduced Hyunsuk Choi, Senior Financial Analyst, who was the presenter.

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

**RESOLUTION NO.: 21-87**

**RE: Approval of Final Development Plan, Admission of Investor Member, Authorization for the Acting Executive Director to Execute a Purchase and Sale Agreement and Close on the Purchase and Sale of the Property, Approval to Execute a Contract and Early Start Agreement with Hamel Builders, Inc., and to Execute an Operating Agreement and General Contractor Contract for the Shady Grove Apartments**

**WHEREAS**, the Housing Opportunities Commission of Montgomery County (“HOC” or “Commission”) is the general partner of Shady Grove Apartments Limited Partnership (“Seller”), the current owner of Shady Grove Apartments (the “Property”); and

**WHEREAS**, the Property was originally constructed in 1980 and is a 144-unit Low Income Housing Tax Credit (“LIHTC”) and Section 8 multifamily property that consists of 45 one-bedroom, 83 two-bedroom, and 16 three-bedroom units; and

**WHEREAS**, the Property is currently operating under an extended-use covenant, which requires the following set aside: 144 units (100%) (project-based Section 8 rental assistance) set aside at 50% of area median income (“AMI”); and

**WHEREAS**, in June 2021, the Commission approved (i) the selection of Hamel Builders, Inc. (“Hamel”) as general contractor for the renovation of the Property, (ii) the request to create a maximum of 24-vacant units at the Property by allowing staff to freeze leasing and temporarily relocate residents off-site to facilitate the renovation schedule, (iii) an increase of \$485,000 to the existing predevelopment budget to be funded with a loan from the PNC Bank, N.A. Real Estate Line of Credit, and (iv) ratified the formation of wholly-owned special purpose entities, HOC at Shady Grove, LLC (“Shady Grove LLC”) and HOC MM Shady Grove, LLC (“Shady Grove MM LLC”) to serve as the new Property owner and managing member entities, respectively; and

**WHEREAS**, staff has prepared the Final Development Plan for the Property identifying a total development cost of approximately \$60.8 million to be funded with the proceeds of HOC-issued tax-exempt bonds enhanced by FHA Risk Share mortgage insurance, 4% LIHTC equity, deferred developer’s fee, a seller note, and the preservation of affordability for 100% of the units at 50% of AMI (the “Final Development Plan”); and

**WHEREAS**, staff will return to the Commission at a later date to seek its approval of the final financing plan which, in addition to tax-exempt and LIHTC equity funding, will include a request to approve a loan that bridges the funding of LIHTC equity; and

**WHEREAS**, HOC intends to negotiate an Operating Agreement with a tax credit investor affiliate of Boston Financial (the “Investor”) for the admission of the Investor as a non-managing investor member of Shady Grove LLC with a 99.99% interest; and

**WHEREAS**, the Commission desires to authorize the Acting Executive Director to (1) execute a general contractor contract with Hamel in an amount not to exceed \$13.2 million, and (2) execute an Early Start Contract not to exceed \$941,330 to allow Hamel to execute an agreement with subcontractors and suppliers as Hamel works to lock-in pricing, prior to the final construction closing projected in November 2021.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County that the Final Development Plan for the Property is hereby approved.

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

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County acting on behalf of itself and on behalf of Seller, as its general partner and ultimate sole owner of its limited partner,



and on behalf of Shady Grove MM LLC, as its sole member, acting on behalf of itself and on behalf of Shady Grove LLC, as its managing member, that it approves (1) the negotiation and execution of a Purchase and Sale Agreement, (2) the transfer of the Property from Seller to Shady Grove LLC (3) the acquisition of the Property by Shady Grove LLC, and (4) the execution of related documents, including without limitation assignment and assumption of existing HAP contracts and the existing management agreement.

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

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County acting on behalf of itself and on behalf of Shady Grove MM LLC, as its sole member, acting on behalf of itself and on behalf of Shady Grove LLC, as its managing member, that it approves the negotiation and execution of a general contractor contract with Hamel for an amount not to exceed \$13.2 million for the renovation of the Property.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County acting on behalf of itself and on behalf of Shady Grove MM LLC, as its sole member, acting on behalf of itself and on behalf of Shady Grove LLC, as its managing member, that it approves the authorization and execution an Early Start Contract not to exceed \$941,330 to allow Hamel to execute an agreement with subcontractors and suppliers as Hamel works to lock-in pricing, prior to the final construction closing projected in November 2021.

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

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 5:57 p.m. and reconvened in closed session at 6:09 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 September 1, 2021 at approximately 6:09 p.m. in 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), Section 3-305(b)(7), Section 3-305(b)(8), and Section 3-305(b)(13) to discuss the acquisition of the fee simple interest of three multifamily properties located in Bethesda, Maryland (pursuant to Section 3-305(b)(3)), the confidential commercial and financial terms of that acquisition (pursuant to Section 3-305(b)(13)), and to discuss and obtain legal advice from legal counsel regarding ongoing litigation (pursuant to Section 3-305(b)(7) and Section 3-305(b)(8)) that is subject to attorney-client privilege (pursuant to Section 3-305(b)(13)).

The meeting was closed and the closing statement dated September 1, 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, Jeffrey Merkwowitz, and Jackie Simon voting in favor of the motion. The following persons were present: Roy Priest, Frances Kelleher, Richard Y. Nelson, Jr.,

Pamela Byrd, Linda Croom, Jeffrey Merkowitz, Jackie Simon, Kayrine Brown, Aisha Memon, Christina Autin, Zachary Marks, Cornelia Kent, Marcus Ervin, Kathryn Hollister, Timothy Goetzinger, Ian-Terrell Hawkins, and Patrice Birdsong.

In closed session, the Commission discussed the below topics and took the following actions:

1. **Topic:** The acquisition of the fee simple interest (via a purchase and sale agreement) of three multifamily properties located in Bethesda, Maryland, including confidential commercial and financial information provided to HOC from private financial institutions in order to finance the acquisition (pursuant to Section 3-305(b)(3) and Section 3-305(b)(13)).
  - a. **Action Taken:** With a quorum present, Commissioners Priest, Kelleher, Byrd, and Merkowitz approved Resolution 21-88AS, thereby authorizing (i) entering into Purchase and Sale Agreements to acquire the properties, (ii) funding necessary deposits, (iii) creating one more single purpose entities to acquire the properties, (iv) a budget and loan to be used for due diligence related to the acquisition, and (v) all other actions necessary and proper to carry out the transactions. Commissioners Nelson, Croom and Simon voted against the action.
2. **Topic:** Discussion with counsel about ongoing litigation impacting Westwood Tower Apartments (pursuant to Section 3-305(b)(7), Section 3-305(b)(8) and Section 3-305(b)(13)).
  - a. **Action Taken:** No action taken.

The closed session was adjourned at 7:36 p.m.

Respectfully submitted,

Kayrine Brown  
Acting Secretary-Treasurer

/pmb

**Approved: October 6, 2021**