

HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY

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

Minutes

November 16, 2022

22-11

The monthly meeting of the Housing Opportunities Commission of Montgomery County was conducted via a hybrid platform and teleconference on Wednesday, November 16, 2022, with moderator functions occurring at 10400 Detrick Avenue, Kensington, Maryland beginning at 4:04 p.m. Those in attendance were:

Present

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

Via Zoom

Pamela Byrd

Also Attending

Chelsea Andrews, Executive Director
Aisha Memon, General Counsel
Ellen Goff
Jennifer Arrington
Marcus Ervin
Tia Blount
Richard Congo
Jay Shepherd
Alex Torton

Kayrine Brown, Deputy Executive Director
Timothy Goetzinger
Ken Silverman
Fred Swan
Patrick Mattingly
Victoria Dixon
Paige Gentry
Bonnie Hodge
Terri Fowler

Also Attending via Zoom

Eugenia Pascual
Darcel Cox
John Broullire
Zachary Marks

Guidy Paul
Leidi Reyes
Steven Firth
Vivian Ikoro

IT Support

Irma Rodriguez
Aries "AJ" Cruz
Genio Etienne

Commission Support

Patrice Birdsong, Special Assistant 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

- There were no speakers who signed up to address the Board.

Executive Director

- Chelsea Andrews, Executive Director, provided an overview of the written report as well as a slide presentation of events.

Commissioner Exchange

- Chair Priest announce that NAHRO will be offering Commissioners Fundamental Training and if Commissioners are interested to contact Patrice Birdsong, Special Assistant to the Commission.

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

A. Approval of Minutes of October 5, 2022

B. Approval of Minutes of October 5, 2022 Closed Session

C. Approval of Minutes of October 25, 2022 Special Session – Property Management RFP

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

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

1. Calendar Year 2023 (CY'23) Portfolio Budgets: Approval of the Calendar Year 2023 Portfolio Budgets

Chair Pro Tem Nelson opened the floor to Executive Director Andrews who provided an overview and introduction of Timothy Goetzinger, Chief Development Funds Officer/Acting Chief Financial Officer, and Terri Fowler, Budget Officer, who provided the presentation.

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

RESOLUTION NO.: 22-74

**RE: Approval of the Calendar Year 2023
Portfolio Budgets**

WHEREAS, the Housing Opportunities Commission of Montgomery County (“HOC”) is the general partner/ultimate managing member of the following entities: (1) Alexander House Apartments Limited Partnership (Alexander House); (2) Arcola Towers RAD Limited Partnership (Arcola Towers); (3) Bauer Park Apartments, LLC; (4) Forest Oak Towers Limited Partnership; (5) HOC at Georgian Court, LLC; (6) Greenhills Apartments Limited Partnership; (7) 4913 Hampden Lane Limited Partnership (Lasko Manor); (8) HOC at

Willow Manor, LLC (Manor at Cloppers Mills, Manor at Colesville and Manor at Colesville); (9) HOC at Shady Grove, LLC; (10) Spring Garden One Associates Limited Partnership (Spring Garden); (11) HOC at Stewartown Homes, LLC; (12) Tanglewood and Sligo LP (Tanglewood/Sligo); (13) 900 Thayer Limited Partnership (Fenton Silver Spring); (14) HOC at The Upton II, LLC (Residences on the Lane); (15) Waverly House RAD Limited Partnership (Waverly House); (16) Wheaton Metro Limited Partnership (MetroPointe) (together, the "LP and LLC Entities"); and

WHEREAS, HOC is the managing member of CCL Multifamily LLC ("CCL"), the owner of The Lindley; and

WHEREAS, as the general partner/ultimate managing member of the LP and LLC Entities and managing member of CCL, HOC manages the businesses and is liable for the debts; and

WHEREAS, the limited partners/non-managing members in LP and LLC Entities have contributed money and share in profits, but take no part in running the businesses and incur no liability with respect to the LP and LLC Entities beyond their contributions; and

WHEREAS, since HOC has a financial obligation to cover the debts of the LP and LLC Entities and CCL, HOC has an interest in the successful performance of LP and LLC Entities and CCL and, as such, should review their performances and approve their budgets; and

WHEREAS, the Budget, Finance and Audit Committee informally reviewed the CY'23 Budgets of the LP and LLC Entities at the October 21, 2022 meeting; and

WHEREAS, the Budget, Finance and Audit Committee also informally reviewed the CY'23 Budget of CCL, which is also operated on a Calendar Year basis, at the October 21, 2022 meeting.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County, acting for itself and on behalf of each of the LP and LLC Entities, as each entities' general partner/ultimate managing member, as appropriate, that it hereby approves the CY'23 Operating Budgets for the LP and LLC Entities, as shown on the attached Exhibit A.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County, acting for itself and on behalf of CCL Multifamily LLC, as its managing member, that it hereby approves the CY'23 Operating Budget for CCL, as shown on the attached Exhibit A.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that the 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 actions contemplated herein.

2. Fiscal Year 2024 (FY'24) County Operating Budget Presentation Fourth Quarter Unaudited Financial Statements: Authorization to Submit the County FY'24 Maximum Agency Request Ceiling ("MARC")

Chair Pro Tem Nelson opened the floor to Executive Director Andrews who provided an overview, introducing Timothy Goetzinger, Chief Development Funds Officer/Acting Chief Financial Officer, and Terri Fowler, Budget Officer, who provided the presentation requesting authorization to submit the proposed FY'24 County Operating Budget to Montgomery County's Office of Management and Budget.

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

RESOLUTION NO.: 22-75

**RE: Authorization to Submit the County FY'24
Maximum Agency Request Ceiling ("MARC")**

WHEREAS, the Housing Opportunities Commission of Montgomery County ("HOC") wishes to submit a request for County funds for FY'24; and

WHEREAS, the County has instructed HOC to submit a Maximum Agency Request Ceiling ("MARC") for FY' 24 in an amount not to exceed \$7,633,168, which is based on the FY'23 approved MARC of \$7,633,168 and does not include the estimate for projected FY'24 increases to compensation, health and retirement benefits, and rental license fees.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that it hereby approves submitting a MARC to the County for FY'24 in the amount of \$7,633,168.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that the 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 actions contemplated herein.

3. Procurement of Property Management Services: Renewal of Property Management Contracts for Battery Lane, Bradley Crossing, The Lindley and The Willow Manor Properties (Willow Manor at Clopper's Mill, Willow Manor at Colesville and Willow Manor at Fair Hill Farm)

Chair Pro Tem Nelson opened the floor to Executive Director Andrews who provided an overview introducing Ellen Goff, Acting Director Property Management, and Alex Torton, Asset Manager, who provided the presentation.

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

RESOLUTION NO.: 22-76

**RE: Renewal of Property Management Contracts
for Battery Lane, Bradley Crossing, The Lindley,
and The Willow Manor Properties (Willow Manor
at Clopper's Mill, Willow Manor at Colesville and
Willow Manor at Fair Hill Farm)**

WHEREAS, the Housing Opportunities Commission of Montgomery County ("HOC") is the sole member of HOC at Battery Lane LLC, the owner of Battery Lane Apartments located in Bethesda, Maryland ("Battery Lane"); and

WHEREAS, HOC is the sole member of HOC MM Bradley Crossing, LLC, which is the sole member of Bradley Crossing, LLC, the owner of Bradley Crossing located in Chevy Chase, Maryland (“Bradley Crossing”); and

WHEREAS, HOC is the managing member of CCL Multifamily LLC, the owner of The Lindley located in Chevy Chase, Maryland (“The Lindley”); and

WHEREAS, HOC is the sole member of HOC MM Willow Manor, LLC, which is the managing member of HOC at Willow Manor, LLC, the owner of Willow Manor at Clopper’s Mill located in Germantown, Maryland, Willow Manor at Colesville located in Silver Spring, Maryland, and Willow Manor at Fair Hill Farm located in Olney, Maryland (together, “The Willow Manor Properties”); and

WHEREAS, staff desires to renew the current property management contracts at Battery Lane and Bradley Crossing until November 30, 2023 with Aldon Management Corporation; and

WHEREAS, staff desires to renew the current property management contract at The Lindley until November 30, 2023 with Bozzuto Management Corporation; and

WHEREAS, staff desires to renew the current property management contracts at The Willow Manor Properties until November 30, 2023 with Habitat America.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County, acting for itself and on behalf of HOC at Battery Lane, LLC, as its sole member, that the Executive Director of HOC, or their designee, is hereby authorized and directed to execute a renewal of the property management contract at Battery Lane with Aldon Management Corporation.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County, acting for itself and on behalf of Bradley Crossing, LLC, as the sole member of its sole member, that the Executive Director of HOC, or their designee, is hereby authorized and directed to execute a renewal of the property management contract at Bradley Crossing with Aldon Management Corporation.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County, acting for itself and on behalf of CCL Multifamily LLC, as its managing member, that the Executive Director of HOC, or their designee, is hereby authorized and directed to execute a renewal of the property management contract at The Lindley with Bozzuto Management.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County, acting for itself and on behalf of HOC at Willow Manor, LLC, as the sole member of its managing member, that the Executive Director of HOC, or their designee, is hereby authorized and directed to execute a renewal of the property management contract at The Willow Manor Properties with Habitat America.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that the 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 actions contemplated herein.

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

- 1. Residences on the Lane: Approval of Amended Finance Plan, Amended Bond Authorizing Resolution, and Draw on the PNC Bank, N.A. Line of Credit**

Commissioner Simon opened the floor to Executive Director Andrews who provided an overview introducing Jennifer Washington, Acting Director Mortgage Finance, and Victoria Dixon, Senior Multifamily Underwriter, to provide the presentation.

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

RESOLUTION NO.: 22-77A

RE: Approval to Amend the Financing Plan for the Residences on the Lane and Draw on the PNC Bank, N.A. Line of Credit to Provide Interim Financing for the Recycling of Tax-Exempt Proceeds

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, HOC at the Upton II, LLC (the "Borrower") owns and operates a condominium unit containing 150 apartments, known as the Residences on the Lane (formerly "Upton II") a mixed-income, age restricted community located in Rockville, Maryland (the "Property"); and

WHEREAS, HOC is currently the managing member of HOC MM Upton II, LLC (the "Managing Member"), which in turn is the managing member of the Borrower; and

WHEREAS, on January 9, 2019, the Commission approved Resolutions 19-09 and 19-09(3), which included the approval of the Financing Plan for the Property and a Bond Authorizing Resolution allocating \$24,000,000 of the Commission's volume cap to the transaction; and

WHEREAS, on February 6, 2019, to protect the transaction from potential interest rate increases the Commission approved Resolution 19-15, authorizing the execution of two interest rate hedges, one for the construction Loan and one for the permanent Loan; and

WHEREAS, on February 22, 2019, to address increased development costs above the previously approved development budget, the Commission approved Resolution 19-23, which included the approval of an Amended Financing Plan for the Property in an approximate amount of \$51.5 million; and

WHEREAS, the approved Financing Plan totaled \$51.5 million for the acquisition, construction and permanent financing for the Property, included the following sources: a \$24 million short-term, tax-exempt loan to fund construction by way of a Commission conduit loan from M&T Bank to be passed through to the Borrower ("Construction Loan"), which will be repaid by a FHA Risk Share Permanent Loan ("Permanent Loan") of up to \$27.5 million; bridge funding during acquisition/construction by way of draws on the Commission's PNC Bank, N.A. Real Estate Line of Credit; LIHTC equity; a subordinate loan from

Montgomery County, Maryland; acquisition financing in the form of a loan from the Commission (“HOC Loan”); and, deferred developer fees; and

WHEREAS, staff has completed underwriting and the Property has reached stabilized operations to support issuance of up to \$29,000,000 of bonds, to fund (i) a Permanent Loan of \$27,000,000 at a debt service coverage ratio of approximately 1.44:1.00 and (ii) up to \$2,000,000 of bond debt service reserves; and

WHEREAS, the Commission desires to provide additional, low-cost financing to the Borrower, to pay or be reimbursed for costs incurred, by (i) drawing \$5,000,000 from the Commission’s taxable line of credit from PNC Bank, National Association (the “PNC Draw”), (ii) using the proceeds of the PNC Draw to recycle loan repayments (the “Recycled Funds”) made by borrowers of loans financed with bonds issued by the Community Development Administration, a unit of the Division of Development Finance of the Maryland Department of Housing and Community Development (“CDA”), and (iii) lending the Recycled Funds to the Borrower; and

NOW, THEREFORE, BE IT RESOLVED that the Housing Opportunities Commission of Montgomery County hereby amends the Financing Plan to total approximately \$51.6 million to address closing costs and reimbursement for additionally incurred costs.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County hereby approves a draw of up to \$5 million from and in accordance with the terms of the PNC Bank, N.A. Line of Credit, the use of such funds to recycle loan repayments made by borrowers of loans financed with bonds issued by CDA, and the lending of the Recycled Funds to the Borrower.

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 Executive Director, or her 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 Executive Director’s judgment, to carry out the Financing Plan and any and all of the transactions and actions contemplated herein.

RESOLUTION NO.: 22-77B

RE: Authorization to Draw on the PNC Bank, N.A. Line of Credit to Recycle Tax Exempt Proceeds

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

WHEREAS, the 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 Development Bonds (“MHDB”); and

WHEREAS, on January 9, 2019, the Commission approved Resolutions 19-09 and 19-09(3), which included the approval of (a) the Financing Plan for The Upton II, a multifamily rental housing development now known as Residences on the Lane (the "Property"), owned and operated by HOC at the Upton II, LLC (the "Borrower") and (b) a Bond Authorizing Resolution allocating \$24,000,000 of the Commission's volume cap to the transaction for issuance of Multifamily Housing Development Bonds ("MHDB"); and

WHEREAS, the Commission, in furtherance of the Program and pursuant to Resolution 19-09(3), executed and delivered its \$24,000,000 Multifamily Mortgage Revenue Note, Series 2019 (the "Upton II Governmental Note") to provide construction phase financing for the Property; and

WHEREAS, the Commission desires to provide additional, low-cost financing to the Borrower, to pay or be reimbursed for costs incurred, by (i) drawing \$5,000,000 from the Commission's taxable line of credit from PNC Bank, National Association (the "PNC Draw"), (ii) using the proceeds of the PNC Draw to recycle loan repayments (the "Recycled Funds") made by borrowers of loans financed with bonds issued by the Community Development Administration, a unit of the Division of Development Finance of the Maryland Department of Housing and Community Development ("CDA"), and (iii) lending the Recycled Funds to the Borrower; and

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that the Commission approves a draw of up to \$5 million from and in accordance with the terms of the PNC Bank, N.A. Line of Credit recycle loan repayments (the "Recycled Funds") made by borrowers of loans financed with bonds issued by CDA.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County authorizes the Executive Director, or her designee, is hereby authorized, without any further action on their respective parts, to execute such documents and to take any and all other actions necessary and proper to carry out the transaction and actions contemplated herein.

RESOLUTION NO.: 22-77C

Re: Adoption of a Bond Authorizing Resolution for the Issuance of Multifamily Housing Development Bonds in one or more series to Refund a Governmental Note and a Draw on the PNC Line of Credit, in each case to Provide Financing for Residences on the Lane (formerly known as The Upton II)

A RESOLUTION OF THE HOUSING OPPORTUNITIES COMMISSION OF MONTGOMERY COUNTY AUTHORIZING THE ISSUANCE AND SALE OF ONE OR MORE TAX-EXEMPT AND/OR TAXABLE SERIES OF THE COMMISSION'S MULTIFAMILY HOUSING DEVELOPMENT BONDS IN AN AGGREGATE PRINCIPAL AMOUNT NOT TO EXCEED \$29,000,000 (COLLECTIVELY, THE "2023 SERIES BONDS") FOR THE PURPOSE OF REFUNDING AND REPAYING CERTAIN PRIOR TAX EXEMPT AND TAXABLE INDEBTEDNESS OF THE COMMISSION EXECUTED, DELIVERED AND/OR ISSUED TO PROVIDE PERMANENT FINANCING FOR RESIDENCES ON THE LANE (FORMERLY KNOWN AS THE UPTON II) FOR OCCUPANCY, IN PART, BY PERSONS OF ELIGIBLE INCOME AND PERMITTING THE COMMISSION TO REALIZE PRESENT VALUE SAVINGS IN ORDER TO CARRYOUT THE PURPOSES OF ITS PROGRAM; AUTHORIZING THE EXECUTION AND DELIVERY OF A SERIES INDENTURE, CERTAIN TAX-RELATED DOCUMENTS, A DISCLOSURE AGREEMENT

AND ANY AND ALL RELATED DOCUMENTS; APPROVING THE PREPARATION, EXECUTION AND DISTRIBUTION OF PRELIMINARY AND FINAL OFFERING DOCUMENTS RELATING TO THE 2023 SERIES BONDS; AUTHORIZING THE EXECUTION OF ANY OTHER DOCUMENTS NECESSARY FOR THE ISSUANCE OF THE 2023 SERIES BONDS AND THE ACCOMPLISHMENT OF THE FINANCING PLAN DESCRIBED HEREIN; AUTHORIZING THE CHAIRMAN, VICE CHAIRMAN OR CHAIRMAN PRO TEM AND EXECUTIVE DIRECTOR OR OTHER AUTHORIZED REPRESENTATIVE TO PROCEED WITH THE SALE OF THE 2023 SERIES BONDS TO TD BANK, N.A. OR TO ANY OTHER UNDERWRITERS OR TO ANY OTHER INITIAL PURCHASERS AND TO EXECUTE AND DELIVER A CONTRACT OF PURCHASE IN CONNECTION WITH SUCH SALE; AUTHORIZING A CREDIT FACILITY FOR THE 2023 SERIES BONDS TO BE PROVIDED BY TD BANK, N.A.; AUTHORIZING THE EXECUTION AND DELIVERY OF A REIMBURSEMENT AGREEMENT AND OTHER DOCUMENTS RELATED TO THE CREDIT FACILITY; AUTHORIZING THE EXECUTIVE DIRECTOR OR OTHER AUTHORIZED REPRESENTATIVE TO ESTABLISH THE TERMS OF THE 2023 SERIES BONDS AND THE CREDIT FACILITY; AND TO MAKE ONGOING DETERMINATIONS RELATING THERETO; APPOINTING THE FINANCIAL ADVISOR AND BOND COUNSEL FOR THE 2023 SERIES BONDS; AND PROVIDING AN EFFECTIVE DATE.

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

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

WHEREAS, the Act empowers the Commission to make mortgage loans to qualified sponsors to provide for the construction, rehabilitation, equipping, and long-term 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 (the "Trust Indenture"), by and between the Commission and U.S. Bank National Association (successor-in-interest to SunTrust Bank), as trustee (the "Trustee"), providing for the issuance of bonds (the "Bonds") from time to time in accordance with the provisions thereof and the provisions of separate series indentures (the "Series Indenture") authorizing and setting forth the terms of each series of Bonds issued under the Trust Indenture; and

WHEREAS, the proceeds received from the issuance and sale of the Bonds under the Trust Indenture are used to make, purchase or finance mortgage loans (the "Mortgage Loans") or finance mortgage loans through the purchase of Guaranteed Mortgage Securities (as defined in the Trust Indenture); 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 Bond, except as expressly provided in the Trust Indenture or in any Series Indenture; and

WHEREAS, the Commission, in furtherance of the Program and pursuant to Resolution 19-09(3), executed and delivered its \$24,000,000 Multifamily Mortgage Revenue Note, Series 2019 (The Upton II) (the "Upton II Governmental Note") to provide construction phase financing for The Upton II, a multifamily rental housing development now known as Residences on the Lane (the "Development"), owned and operated by HOC at the Upton II, LLC (the "Borrower"); and

WHEREAS, the proceeds of the Upton II Governmental Note were applied to finance a \$24,000,000 construction loan to the Borrower (the "Construction Loan") for the acquisition and construction of the Development; and

WHEREAS, pursuant to Resolution 19-09(3), adopted by the Commission on January 9, 2019, the Commission acknowledged that the development plan for the Development contemplated the refinancing of the Upton II Governmental Note following completion of construction of the Development with a permanent FHA Risk-Share insured loan or such other source of refinancing available to the Commission and economically advantageous (the "Permanent Mortgage Loan") and that such refinancing would be presented to the Commission for approval at such time as the construction of the Development is complete and prior to the conversion of the Construction Loan to a Permanent Mortgage Loan; and

WHEREAS, the Commission has determined that the Permanent Mortgage Loan will be insured by the Federal Housing Administration ("FHA") under Section 542(c) of the Housing and Community Development Act of 1992, as amended, and the regulations promulgated thereunder (the "Risk Sharing Act"); and

WHEREAS, construction of the Development is complete and the Borrower has incurred additional costs (the "Additional Costs") in excess of the development costs approved by the Commission as of the date of Resolution 19-09(3); and

WHEREAS, the Commission has determined to provide additional, low-cost financing to the Borrower to pay or be reimbursed (as permitted under Treasury Regulation 1.150-2) for the Additional Costs by (i) obtaining \$5,000,000 of short-term financing (the "PNC Note") available under the Commission's taxable line of credit from PNC Bank, National Association ("PNC"), (ii) using the proceeds of the PNC Note to recycle loan repayments (the "Recycled Funds") made by borrowers of loans financed with bonds issued by the Community Development Administration, a unit of the Division of Development Finance of the Maryland Department of Housing and Community Development and (iii) lending the Recycled Funds to the Borrower; and

WHEREAS, the Commission has determined to issue one or more tax-exempt and/or taxable series of its Multifamily Housing Development Bonds to be designated "2023 Series A" (or such other series designations as shall be approved by the Executive Director as provided herein, the "2023 Series Bonds"), pursuant to the Trust Indenture and one or more series indentures (each, a "Series Indenture," and together with the Trust Indenture, the "Indenture") for the purpose of providing financing for (i) the refunding and repayment of the Upton II Governmental Note, thereby providing financing for the

Permanent Mortgage Loan, (ii) the repayment the PNC Note, (iii) a deposit to the Reserve Fund of the Trust Indenture and (iv) the payment of costs of issuance of the 2023 Series Bonds, if necessary (collectively, the "Financing Plan"); and

WHEREAS, the Commission expects to issue all or a portion of the 2023 Series Bonds as variable rate demand obligations to be supported by a letter of credit or other Credit Facility (as defined in the Trust Indenture) issued by TD Bank, N.A. (the "2023 A Credit Facility"); and

WHEREAS, in connection with the issuance of the 2023 Series Bonds and the accomplishment of the Financing Plan, the Commission anticipates entering into various documents, including, but not limited to, a Series Indenture, preliminary and final Offering Documents, a Disclosure Agreement, a Contract of Purchase, the Tax-Related Documents, a Reimbursement Agreement and certain other documents relating to the 2023 Series Bonds and the Financing Plan (each such capitalized term not heretofore defined shall have the meaning as hereinafter set forth).

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

1. **2023 Series Bonds.** The 2023 Series Bonds are hereby authorized to be issued in an aggregate principal amount not to exceed \$29,000,000 to carry out the purposes of the Program as described above. Subject to the following sentence, the 2023 Series Bonds shall be separately designated "2023 Series A." Notwithstanding the foregoing, the Executive Director is hereby authorized to approve, in consultation with the Financial Advisor and Bond Counsel to the Commission, such greater number of series of Bonds to be issued in connection with the Financing Plan and to determine the designations therefor. The 2023 Series Bonds are to be issued pursuant to the terms of the Trust Indenture and the Series Indenture. The 2023 Series Bonds shall be limited obligations of the Commission, secured by and payable solely from moneys and other assets pledged therefor under the Indenture, including the Permanent Mortgage Loan and the loan of Recycled Funds to the Borrower. The 2023 Series Bonds shall be issued as obligations the interest on which is excludable from gross income for federal income tax purposes (the "Tax Exempt 2023 Series Bonds") and/or as obligations the interest on which is includable in gross income for federal income tax purposes, subject to the approval of the Executive Director, in consultation with the Financial Advisor and Bond Counsel to the Commission.

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

3. **Series Indenture.** The Chairman, the Vice Chairman, the Chairman Pro Tem or the Executive Director of the Commission, or any authorized designee of the Executive Director, is hereby authorized and directed to execute and deliver the Series Indenture in such form as shall be approved by such officer, 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 (each, an "Authorized Officer"), is hereby authorized and directed to affix the seal of the Commission to the Series Indenture and to attest the same.

4. **Tax-Related Documents.** The Chairman, the Vice Chairman, the Chairman Pro Tem or the Executive Director of the Commission is hereby authorized and directed to execute and deliver a Tax Regulatory Agreement and No Arbitrage Certificate and other documents relating to

the Tax-Exempt 2023 Series Bonds (collectively, the “Tax-Related Documents”) restricting the application of the proceeds of the Tax-Exempt 2023 Series Bonds in such forms as shall be prepared by Bond Counsel and approved by the Chairman, the Vice Chairman, the Chairman Pro Tem or the Executive Director, their execution of the Tax-Related Documents constituting conclusive evidence of such approval and of the approval of the Commission.

5. **Disclosure Agreement.** The Commission hereby authorizes and approves the execution and delivery of a continuing disclosure agreement (the “Disclosure Agreement”) related to the 2023 Series Bonds, in such form as may be approved by the Chairman, the Vice Chairman, the Chairman Pro Tem or the Executive Director of the Commission, the execution and delivery of the Disclosure Agreement constituting conclusive evidence of such approval of the Disclosure Agreement and of the approval of the Commission.

6. **Permanent Mortgage Loan; Real Estate Documents.** The Commission hereby authorizes and approves the financing of the Permanent Mortgage Loan with the proceeds of the 2023 Series 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 Permanent Mortgage Loan in an amount not greater than 25% of the outstanding principal balance of the Permanent 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 Development and the Permanent Mortgage Loan, in its capacity as issuer of the 2023 Series 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 one or more preliminary offering documents of the Commission and the preparation, execution and distribution of one or more final offering documents (collectively, the “Offering Documents”), each relating to the 2023 Series Bonds, in such forms as may be approved by the Chairman, the Vice Chairman, the Chairman Pro Tem or the Executive Director of the Commission, the execution and delivery of the Offering Documents constituting conclusive evidence of such approval of the Offering Documents and of the approval of the Commission.

8. **Sale of 2023 Series Bonds.** The Chairman, the Vice Chairman, the Chairman Pro Tem, the Executive Director or other Authorized Officer of the Commission is authorized to proceed with the sale of the 2023 Series Bonds to TD Bank, N.A. and/or such other underwriters as may be designated by the Commission, or to any other entity as shall be in the best interest of the Commission as determined by the Chairman, the Vice Chairman, the Chairman Pro Tem, the Executive Director or other Authorized Officer of the Commission.

9. **Contract of Purchase.** The Chairman, the Vice Chairman, the Chairman Pro Tem, the Executive Director or other Authorized Officer 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 2023 Series Bonds.

10. **2023 A Credit Facility.** The Commission hereby authorizes and approves the 2023 A Credit Facility. The Chairman, the Vice Chairman, the Chairman Pro Tem, the Executive Director or other Authorized Officer of the Commission is hereby authorized to execute a reimbursement agreement (the “Reimbursement Agreement”) and such other agreements, certificates and documents related to the 2023 A Credit Facility (the “Credit Facility Documents”), in such forms

as may be approved by the Chairman, the Vice Chairman, the Chairman Pro Tem or the Executive Director of the Commission, the execution and delivery of the Credit Facility Documents constituting conclusive evidence of such approval of the Credit Facility Documents and the approval of the Commission.

11. **Terms; Ongoing Determinations.** The Executive Director or other Authorized Officer 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 2023 Series Bonds, all of the foregoing to be specified in the related Series Indenture. The Executive Director or other Authorized Officer 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, is hereby authorized, from time to time during the period the 2023 Series Bonds are outstanding, to make ongoing determinations, as may be required by the terms of the related Series Indenture and any other financing documents relating to the 2023 Series Bonds, including, but not limited to, the giving and withholding of consents, the selection of certain providers and the refunding and redemption of the 2023 Series Bonds, and the Executive Director or other Authorized Officer 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 Executive Director or other Authorized Officer 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 issuance and sale of the 2023 Series 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 2023 Series Bonds.

14. **No Personal Liability.** No stipulation, obligation or agreement herein contained or contained in the 2023 Series Bonds, the Series Indenture, the Contract of Purchase, the Tax-Related Documents, the Offering Documents, the Disclosure Agreement, the Real Estate Documents, the Credit Facility 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 2023 Series 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 2023 Series 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.

2. Sandy Spring Missing Middle: Approval to Select and Execute Contract with Zavos Architecture & Design as Architect; Fourth Phase of Predevelopment Funding, Approval of Final Site Design; and Authorization to Submit a Final Site Plan to Planning Commission

Commissioner Simon opened the floor to Executive Director Andrews who provided an overview introducing Marcus Ervin, Director of Real Estate, and Jay Shepherd, Housing Acquisitions Manager, to provide the presentation.

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, Merkwitz, and Simon.

RESOLUTION NO.: 22-78

RE: Approval to Select and Execute a Contract with Zavos Architecture & Design for Sandy Spring Missing Middle, Approval of the Fourth Phase of Predevelopment Funding, Approval of Final Site Design; and Authorization to Submit a Final Site Plan to the Planning Commission

WHEREAS, the Housing Opportunities Commission of Montgomery County (“HOC” or “Commission”) owns a single family home and lot located at 617 Olney Sandy Spring Road (“617 Property”) and, through an affiliate, owns a multifamily townhouse and single-family community called Sandy Spring Meadow (the “SSM Property”); and

WHEREAS, HOC intends to combine a portion of the SSM Property with the 617 Property (collectively, the “Sandy Spring Lots”) to create a Missing Middle development, a development style with a range of multi-unit or clustered housing types—compatible in scale with detached single-family homes—that will help to meet the growing demand for walkable urban living (such development concept at the Sandy Spring Lots, the “S2M2 Development”); and

WHEREAS, the Commission has approved \$1,010,000 in predevelopment funding to support the S2M2 Development, specifically (i) on March 4, 2020, the Commission approved \$75,000 from the Opportunity Housing Reserve Fund (the “OHRF”) to explore a joint venture between the Maryland-National Capital Park and Planning Commission and HOC, (ii) on July 1, 2020, the Commission approved a second tranche of \$330,000 from the OHRF to continue predevelopment activities, (iii) on January 13, 2021, the Commission approved a third tranche of \$180,000 from the [OHRF] to pay for legal land use services from Selzer, Gurvitch, Rabin, Wertheimer & Polott, P.C. for the entitlement of the S2M2 Development, and (iv) on May 5, 2021, the Commission approved a fourth tranche of \$425,000 from the OHRF to continue predevelopment activities and the submission of a Concept Plan Application to the Planning Commission; and

WHEREAS, in July of 2021, HOC submitted a Concept Plan Application to the Planning Commission and subsequently received comments to such concept plan;

WHEREAS, after incorporating such comments into a revised concept plan, the Commission desires to take the next step in the development process and submit a combined Preliminary and Site Plan Design Application for the S2M2 Development to the Planning Commission; and

WHEREAS, HOC wishes to engage an Architectural and associated engineering (“A&E”) firm to prepare the architectural plans needed for the construction of the S2M2 Development; and

WHEREAS, the Commission issued a request for proposals for architectural services for the S2M2 Development (“RFP# 2330”) to the pool of architecture firms under Contract 18-2080; and

WHEREAS, Zavos Architecture & Design (“Zavos”) met the qualifications for most responsive and responsible bidder based on experience with HOC, experience with this style of development, Montgomery County and price; and

WHEREAS, the Commission desires to select Zavos as the architect for the S2M2 Development and authorize the Executive Director of HOC to execute a contract (the “Architect Contract”) with Zavos; and

WHEREAS, the Commission desires to approve a fourth phase of funding in the amount of \$559,000 from the OHRF to cover the expenditures of the architectural and associated engineering required plus additional expenditures related to the predevelopment activities for the S2M2 Development; and

WHEREAS, the Commission currently intends and reasonably expects to participate in tax-exempt borrowings to finance any capital expenditures for the redevelopment of the S2M2 Development in an amount not to exceed \$25,000,000, *all or a portion of which may reimburse* the Commission for the portion of such capital expenditures incurred or to be incurred subsequent to the date, which is 60 days prior to the date hereof, but before such borrowing, and the proceeds of such tax-exempt borrowing will be allocated to reimburse the Commission’s expenditures within 18 months of the later of the date of such capital expenditures or the date that the S2M2 Development is placed in service (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 capital expenditures with the proceeds of the Commission’s future tax-exempt borrowing for such projects named in this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that it hereby authorizes the Executive Director to (i) submit the Preliminary and Site Plan Application for the S2M2 Development to the Planning Commission, (ii) negotiate and execute the Architect Contract, and (iii) expend up to \$559,000 to continue predevelopment activities for the S2M2 Development, to be funded by a draw on the OHRF and reimbursed at closing of the construction financing for the S2M2 Development.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that it presently intends and reasonably expects to finance costs related to the predevelopment and other expenditures of the S2M2 Development located in Sandy Spring, Montgomery County, with moneys currently contained in its OHRF and any other funds of the Commission so designated for use by the Commission.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that all of the capital expenditures covered by this Resolution which may be reimbursed with proceeds of tax-exempt borrowings will be incurred not earlier than 60 days prior to the date of this Resolution except preliminary expenditures as defined in Treasury Regulation Section 1.150-2(f)(2) (e.g. architect's fees, engineering fees, costs of soil testing and surveying).

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 \$25,000,000 will be applied to reimburse the Commission for its expenditures in connection with the S2M2 Development.

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

IV. ITEMS REQUIRING DELIBERATION and/or ACTION

1. Agency Audit: Acceptance of HOC Fiscal Year 2022 Audit Financial Statements, Single Audit Report, and Management Letter

Executive Director Andrews provided an overview recommending to the full Commission the acceptance of the FY'22 Audited Financial Statements, Single Audit Report, and Management Letter.

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, Merkwowitz, and Simon.

RESOLUTION NO.: 22-79

RE: Acceptance of HOC FY'22 Audited Financial Statements Single Audit Report, and Management Letter

WHEREAS, the independent auditors, CliftonLarsonAllen LLP, presented their report for FY'22, which included the FY'22 Audited Financial Statements, Single Audit Report, and Management Letter, to the Housing Opportunities Commission of Montgomery County (the "Commission"); and

WHEREAS, at a meeting held on November 16, 2022, the Commission reviewed the FY'22 Audited Financial Statements, Single Audit Report, and Management Letter.

NOW, THEREFORE, BE IT RESOLVED that the Housing Opportunities Commission of Montgomery County accepts the FY'22 Audited Financial Statements, Single Audit Report, and Management Letter prepared by CliftonLarsonAllen LLP.

BE IT FURTHER RESOLVED by the Housing Opportunities Commission of Montgomery County that the 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 actions contemplated herein.

Chair Priest called a recess at 5:42 p.m. The meeting was reconvened at 5:45 p.m.

Chair Priest read the Written Closing Statement and made a motion to adopt the statement and close the meeting. Chair Pro Tem Nelson seconded the motion, with Commissioners Priest, Kelleher, Nelson, Byrd, Croom, Merkowitz, and Simon voting in approval.

Based upon this report and there being no further business to come before this session of the Commission, the Commission unanimously adjourned the open session at 5:47 p.m., and reconvened in closed session at 6:05 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 November 16, 2022 at approximately 6:05 p.m. at 10400 Detrick Avenue, Kensington, MD 20895. The meeting was closed under the authority of Section 3-305(b)(9) to discuss the ongoing negotiations with the union.

The meeting was closed and the closing statement dated November 16, 2022 was adopted on a motion made by Roy Priest, seconded by Richard Y. Nelson, Jr., with Roy Priest, Frances Kelleher, Richard Y. Nelson, Jr., Pamela Byrd, Linda Croom, Jeffrey Merkowitz 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, Chelsea Andrews, Kayrine Brown, Aisha Memon, Patrick Mattingly, Timothy Goetzinger, Terri Fowler, and Patrice Birdsong.

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

1. **Topic:** The status of the ongoing negotiations with the union, including wages (pursuant to Section 3-305(b)(9)).
 - a. **Action Taken:** No action taken.

The closed session was adjourned at 6:30 p.m.

Respectfully submitted,

Chelsea Andrews
Secretary-Treasurer

/pmb

Approved: December 7, 2022