

**BOARD OF COMMISSIONERS
OF THE METROPOLITAN DEVELOPMENT AND HOUSING AGENCY**

August 11, 2020

- 1) Call to order.
- 2) Approval of Minutes of the Meeting of July 14, 2020.
- 3) Introductions.
- 4) Public Comments.

REPORT FROM COMMITTEES

- 5) Report from the Human Resources Committee
 - Agency Safety and Health Plan.
- 6) Report from the Joint Development & Finance Committees.
 - a) PILOT Agreement – Hickory Ridge
 - b) Public Housing Authority Annual Plan.

EXECUTIVE REPORT

- 7) Executive Director's Report.
- 8) Board Retreat Request Review.
- 9) Board Information Request.
- 10) Ethics Training
- 11) Additional Business.
- 12) Adjournment.

**SUMMARY REVIEW OF AGENDA ITEMS FOR
THE MDHA BOARD OF COMMISSIONERS**

August 11, 2020

5. Agency Safety and Health Plan.

As required by Public Chapter 561 of the General Assembly of the State of Tennessee, Metropolitan Development and Housing Agency must maintain an effective occupational safety and health program for its employees. The established program has been updated to provide a safe and healthful place and condition of employment and the Board is being requested to approve the resolution.

6a. PILOT Agreement – Hickory Ridge.

Hickory Ridge Apartments, Phase II, LP (Developer) has acquired property located at 579 Hickory Hills Boulevard and is currently developing a 60-unit affordable housing complex. Developer has received 9% Low Income Housing Tax Credits (LIHTCs) from the Tennessee Housing Development Agency (THDA). The tax credits will result in an equity amount of \$7,865,096. When completed, the proposed development will consist entirely of two and three-bedroom units. 100% of the units will be subject to income and rent restrictions, the average income restriction will be no greater than 60% of area median income (AMI).

Staff is recommending approval of a PILOT having an initial payment of \$44,674 in lieu of property taxes after the project is placed in service. The PILOT would increase by 3% annually over the 10-year life of the agreement. This PILOT payment was based on a review of the site's projected base year taxes as well as the project's development budget, operating pro forma, and debt obligations. MDHA estimates this to be a tax abatement of approximately \$60,740 for the first year the property is placed in service. For 2019, the site generated \$3,638 in annual property tax. If approved, this would leave MDHA's annual abatement capacity at \$528,684.

6b. Public Housing Authority Annual Plan.

As required by HUD, the Annual PHA Plan, which relates primarily to our administration of the Housing Choice Voucher program, was prepared by agency staff and had the required public review and comment opportunities for the 45 days prior to the public hearing before the Board on July 14. The Plan has now been finalized and the Board is being requested to approve the Plan, adopt the resolutions required by HUD to accompany the Plan, and authorize its submission to HUD.

MEETING MINUTES
OF
THE METROPOLITAN DEVELOPMENT AND HOUSING AGENCY

The regular meeting of the Board of Commissioners of the Metropolitan Development and Housing Agency was held on Tuesday, July 14, at 11:30 a.m. via WebEx in the Collaboration Room of the Gerald F. Nicely Building, 701 South Sixth Street, Nashville, Tennessee.

PRESENT: Bill Purcell, Chair
Emily Thaden, Vice Chair of Finance
Aole Ansari, Vice Chair of Development
Antoinette Batts
Kay Bowers
Paulette Coleman
Marcus Campbell

ALSO PRESENT: James Harbison, Executive Director
James Thiltgen, Deputy Executive Director
Saul Solomon, Legal Counsel
David Dellinger, Chief Development Officer
Michail Huerter, Chief Operating Officer
Will Choppin, General Counsel
Will Biggs, Director of Affordable Housing
Melinda Hatfield, Director of Finance
Joe Cain, Director of Urban Development
Emel Alexander, Director of Community Development
Norman Deep, Director for Rental Assistance
Michael Wegerson, Director of Recapitalization
Jamie Berry, Director of Communications
Kevin Johnson, Construction Project Manager
Pat Thicklin, Assistant Director of Human Resources
Matt Wiltshire, Chief Strategy and Intergovernmental Affairs Officer
LaTonya Ellis, Executive Office Manager
Denise Hagewood, Executive Office Administrative Assistant
Brenda Morrow, President of Edgehill Apartments Resident Association
Tomma Thornton, Property Manager of Edgehill Apartments

Saul Solomon, Legal Counsel called roll and determined there was a quorum. Mr. Solomon announced the MDHA Board meeting was being broadcast electronically via Webex to satisfy Governor Lee's Executive Order, No. 16. He also noted the meeting was being recorded for future viewing via Youtube and the general public was given the opportunity and instruction on how to participate.

Chairman Bill Purcell called the meeting to order and requested approval of the minutes of the meeting of June 9, 2020. Vice Chair Emily Thaden moved adoption of the following resolution:

Resolution No. 26-20

“RESOLVED by the Board of Commissioners of the Metropolitan Development and Housing Agency, that it hereby approves the minutes of the meeting of June 9, 2020.”

The motion was seconded by Commissioner Ansari, and upon vote all voted “aye”. None voted “no”.

Chairman Purcell introduced Ms. Brenda Morrow, President of Edgehill Apartments Resident Association and Ms. Tomma Thorton, Property Manager of Edgehill Apartments. Ms. Morrow announced a report on Edgehill Apartments had recently been sent to the Commissioners. She and other volunteers have been contacting residents to see how everyone's doing during the Covid-19 pandemic. She announced The Community Foundation of Middle TN – Staler Family Fund awarded \$6000 to the Organized Neighbors of Edgehill Association. The grant was used to purchase food and cleaning supplies for the residents. The items are distributed on the first and third Saturdays at Edgehill United Methodist Church. She said the garden at Edgehill was doing very well, but due to Covid they were unable to host the Youth Workers this summer. She announced two picnic tables were constructed by the Boy Scouts and placed in the garden area. Lastly, Ms. Morrow announced twenty boxes of fruits and vegetables were donated today by Salama Urban Ministries. Ms. Thornton spoke on how much she appreciated Ms. Morrow and the other volunteers. She mentioned Second Harvest Food Bank and several other food programs have been very helpful to the residents during the pandemic. She also made note that 176 Covid supply kits were donated to the residents. Chairman Purcell thanked them on behalf of the Board.

Chairman Purcell asked if there were any public comments. Jamie Berry, Director of Communications said there were none.

Chairman Purcell called upon Vice Chair Emily Thaden for the Housing and Community Services Committee Report. Vice Chair Thaden stated the Committee met on July 9th to discuss two items of business. The first item was the Amendment to the Housing Choice Voucher (HCV) Administrative Plan. During discussions with HUD regarding the HCV shortfall, a technical issue was discovered regarding reinstatement of non-special purpose vouchers. The amendment corrects the issue. Vice Chair recommended Board approval of the following resolution on the Amendment to the HCV Administrative Plan:

Resolution No. 27-20

“A RESOLUTION APPROVING THE AMENDMENT OF THE HOUSING CHOICE VOUCHER ADMINISTRATIVE PLAN.

Whereas, Section 17(B) (3) (e) is amended as follows:

- e. The Metropolitan Development and Housing Agency determines that there is insufficient funding in their contract with HUD to support continued assistance for families in the program. In determining which HAP Contracts to terminate, the Metropolitan Development and Housing Agency will identify them in the following order, excluding elderly and disabled families.
 1. Families that have been on the Housing Choice Voucher program for 10 years or more.
 2. Families that have been on full HAP assistance for 18 months or more.
 3. Families receiving HAP assistance in excess of \$5,400 annually

Note: Any "Special Purpose" voucher holders will be the last to be included and the first to be re-instated in the event terminations due to insufficient funding are necessary.

After re-instatement of any special purpose vouchers, all other families will be re-instated in order based on the date of termination."

Upon vote, all voted "aye"; none voted "no" and the Board adopted Resolution 27-20.

The second item on the Housing and Community Services Committee agenda was the Public Housing Authority (PHA) Annual Plan. The Committee recommended forwarding the plan to the Full Board for vote in August after gathering any public comments during the July 14th public hearing. There was no further business before the Housing and Community Services Committee.

Chairman Purcell called upon Vice Chair Thaden to give a report from the Joint Finance and Development Committee. The Committee met on both July 9th and July 14th via Webex. The Committee discussed a PILOT for Hickory Ridge Apartments and recommended full Board approval during the August Board meeting. The PILOT is a LIHTC project consisting of 60 two and three bedrooms units. There was also a presentation and discussion on the Vanguard employee retirement program. The Committee found the package to be generous with very low fees. The Committee wanted to see more employee participation. Vice Chair Thaden stated MDHA's Acting Director of Human Resources, Pat Thicklin, is planning future employee education opportunities to address that. There was a continued presentation on Redevelopment Districts from the previous month. The presentation provided information on where we stood with the sixteen recommendations proposed by the TIF Committee. More information will be provided to the Committee after the fall presentation before the Metro Council. The Committee requested further conversation on MDHA's role in deciding how TIF should be used to shape our communities in the future. And how are we coordinating with the Mayor's office, Metro Council, and the Planning Department to advance what we want to see done with the funds. Vice Chair Thaden stated the Agency's annual budget will be discussed in next month

committee meeting. There was no further business to come before the Joint Finance and Development Committee.

Chairman Purcell called upon Commissioner Ansari to give a report from the Human Resources Committee. The Committee met on July 9th via Webex. The Committee approved the minutes from the December 10, 2019 meeting. The Committee was to review the Agency's Safety and Health plan but seeing that all members of the Committee didn't have the full plan, the discussion was deferred until August. There was also an update on the SEIU - employee hazard pay issue. After research, it was determined the workers do not qualify for hazard pay. The Committee asked MDHA's Director to clearly explain the decision and reasons why to the employees. There was no further business to come before the Human Resources Committee.

Chairman Purcell called for the Executive Director's Report. Mr. James Harbison, MDHA Executive Director, stated the mission of the Agency: Creating and managing affordable housing opportunities, supporting neighborhoods, strengthening communities, and helping to build a greater Nashville. The mission is based on the Agency's original Charter. The goals set during the 2020 Board Retreat were: 1). Increase affordable rental housing for low income citizens, 2). improve self-sufficiency of residents, 3). Strengthen the Agency's finances, 4) create relationships with key constituents, and 5). Improve Nashville neighborhoods. Mr. Harbison stated everything discussed in his report today would address one of the points. He proudly announced the Agency received its sixth 9% LIHTC Award. Mr. Harbison applauded Jim Thiltgen, staff and the consultants for their hard work. The award would bring in \$3.6 million in tax credit funding that can be used as investor's equity. Mr. Harbison stated Boscobel II was near completion, the townhomes were almost fully leased and Manning Place planned to open within the next 30 days. Mr. Harbison announced that he would be speaking before the THDA Board during their Quality Assurance program on July 15th. He planned to thank THDA for their continued support. The LIHTC awards have been the foundation of our building program. The refinancing of the 10th and Jefferson property is scheduled to close next week. Mr. Harbison stated the Agency has notified FEMA that our insurance and public donations covered all our tornado related expenses and we have withdrawn our FEMA claim. Community Investment loans on Red Oak Townhomes and Rolling Mill Hill parking garage are scheduled for closing soon, which will improve our financial position. HUD's Secretary has approved the convening event for Envision Sudekum Napier. HUD will host the web-based event next week. MDHA's Connect Home program, is schedule to resume distribution of laptops to 957 children in the Sudekum Napier community on August 4th. The program was delayed due to Covid-19. Our Jobs Plus program continues to be a success at the Envision Center. The Agency received a \$25K grant to assist with job readiness and job training. The Agency is wrapping up a \$200K playground for Explore School. The Agency is working to secure a community quarterback to help fund the Activity Center. We also plan to apply for new market tax credits to assist with the project. Mosley on Sixth, a mixed income property is fully leased. Red Oak townhomes is under construction, scheduled completion is set for January 2021. One-third of the project is federally subsidized. Mr. Harbison thanked Nashville Metro government for their equity contribution to the project. Manning Place opens for occupancy in the next 30 days. Boscobel IV will break ground in the spring of 2021. The Agency is currently taking bids for the water outflow pipe project for Boscobel Heights. The Jefferson Street pocket park construction is over 70% complete; Forrest Bend Townhomes construction is less than 1% from completion; Curb Victory Center construction is 87% complete; Trolley Barns parking garage, the Central Maintenance facility and Randee Rogers are all under construction. Three waiting list opened in June: Gernert studios, Hadley Towers and Edgehill apartments. Metro Council approved the CDBG recovery funds to complete recovery efforts resulting from the May 2010 flood; this redirects funds to be used for homeownership. The Council also approved the CAREs Act Substantial Amendment One to the 2019-2020 Action Plan. The Agency closed on the Family Dollar property on June

17th. Next week the budgets for all properties will be presented to Mr. Harbison in preparation for the Finance Committee's August meeting. He anticipates a strong budget with a slight operating cost adjustment factors (OCAF) increase of 2%. The Agency received a commitment from HUD to cover any potential shortfall. This is a testament to the diligent actions of our staff and Board.

Chairman Purcell asked if there were any questions for the Executive Director. Commissioner Kay Bowers asked Mr. Harbison to give the functions of the Envision Center in the Sudekum Napier community. Mr. Harbison stated the Center brings under one roof collaborative partners to assist residents in the areas of health, employment, character building, and works to bridge the digital divide. There are three full time employees at the Center which is located on Lafayette Street. He stated the Connect Home project and Jobs Plus is our major contribution. David Dellinger, Chief Development Officer, gave the full list of partners: American Job Center, MDHA Connect Home, HUD Workforce Readiness, TN Department of Human Services, TN Department of Children's Services, Woodbine Community Organization, Workforce Essentials, Metro Action Commission, Nashville Community College, SHINE, Neighborhood Health, Seay-Hubbard United Methodist Church, Napier School, Church of the Messiah, and the Nashville Conflict Resolution Center. Mr. Harbison stated MDHA Case Workers have identified 25 families in the Sudekum Napier area who will receive guidance in achieving self-sufficiency and success. Commissioner Bowers asked if their efforts would be tracked. Mr. Harbison replied that would be part of the Case Managers duties. Chairman Purcell stated the information reported here was a reflection of the good work not only by the Executive Director and Staff, but also of the Committee Chairs and Commissioners.

Chairman Purcell recognized Mr. Harbison to discuss the next item on the agenda, the Board retreat request review. Mr. Harbison stated a spreadsheet had been sent to the Board members that detailed the topics and tasks. Chairman Purcell asked Saul Solomon, Board Legal Counsel, if the Vanguard presentation met the fiduciary requirements, to which Mr. Solomon replied yes. Mr. Solomon stated the Nationwide program still needed to be reviewed by the Board. Mr. Harbison stated that would be added to the spreadsheet. Mr. Harbison stated the Agency's annual budget would be before the Board in September.

Chairman Purcell asked the Board members if topics identified after the Board retreat should be added to the original list or should they be maintained on a separate list. The Chair called upon Commissioner Ansari who stated the newly identified topics should be kept on a separate list. That way the Board could have a solid picture of what was accomplished from the 2020 Board retreat.

Chairman Purcell recognized Mr. Harbison to discuss the next agenda item, Board information request. Mr. Harbison stated the Agency's safety plan would be discussed today and he also gave a list of four items that would be discussed during the August Board meeting. Vice Chair Thaden raised concern about hearing so many topics during the August meeting. It was decided all items would be added to the agenda and if time ran out, the remaining items would be deferred to the next month's meeting.

Commissioner Coleman asked when the budget information would be received for preview. She asked that the information be forwarded to the Commissioners prior to the usual Friday before the meeting. She also asked if a special meeting could be called to allow more time to complete the budget discussion. Chair Purcell stated that special committee meetings could definitely be called if deemed necessary. It was stated that the Commissioners would be receiving and discussing the budget in August in hopes of approval during the September Board meeting.

Chairman Purcell called for the next agenda item, MDHA Safety Procedures. Mr. Harbison stated the Agency has maintained a safety and occupational health plan since the 1950s. The purpose of the plan is to provide guidelines to help to structure a safe work environment. There are three parts to the plan: 1). employee commitment and involvement, 2). hazard inspections, and 3). ongoing training for staff. Mr. Harbison stated the Agency participates in 27 local and federal programs that have a safety component and require reporting. Mr. Harbison stated the Agency's 2020 safety plan would be presented to the Board for approval during the August meeting. Commissioner Coleman asked about employee's acceptance and buy-in. Mr. Harbison stated the Agency's employees may voice any concerns with policies and procedures through an employee hot line, periodic surveys, and his open door policy. Mr. Harbison then discussed the Agency's Covid-19 Safety procedures. He said each department is tasked with minimizing exposure. Telework has been implemented for over half the Agency's employees. Computers and personal PPE's have been distributed, extra cleaning has been mandated, maintenance crews only handling emergency repairs, apartment entry procedures put in place for maintenance staff, utilization of the Ascension Screen and Go application and temperature checks required for staff. Mr. Harbison mentioned the implementation of monthly Covid-19 test for all employees starting in August. Commissioner Coleman asked about the additional costs to the Agency. Mr. Dellinger stated the Agency is tracking those costs. Commissioner Bowers asked how the Agency was conducting testing at the Towers. Mr. Harbison stated the testing sites are rotated between locations on Fridays. The testing is a collaboration between the Agency and Metro General Hospital. Commissioner Batts voiced concern for the maintenance workers entering apartments of residents who refuse to take the test and in her opinion are not taking the Covid-19 issue seriously. Mr. Harbison stated he and Mr. Will Biggs, Director of Affordable Housing are also concerned and are doing all they can to ensure the safety of our maintenance staff. Chairman Purcell said he feels good about the protection of our senior residents and the diligence shown in protecting them. He was thankful for the partnership with Meharry General and mentioned the hospital was granted \$9 million dollars in Covid-19 funding. Commissioner Bowers asked what percentage of our residents are seniors or disabled, to which Mr. Harbison answered 46%.

Chair Purcell moved to the last item on the agenda, additional business. Chairman Purcell recalled a previous presentation by Mr. Dexter Samuels, Executive Director of the airport. The presentation by Mr. Samuels was the start of establishing an evaluation process for the MDHA's Executive Director. The first steps in the robust and detailed process would begin in August. Lastly, Commissioner Ansari asked if CWA could be added to the Board information updates. Mr. Harbison stated CWA was already covered under the Cayce envelope.

There being no further business to come before the Board, the Chair declared the meeting adjourned.

Secretary

APPROVED:

This _____ day of _____, 2020.

Chair

METROPOLITAN DEVELOPMENT AND HOUSING AGENCY

INTEROFFICE MEMORANDUM

August 7, 2020

TO: James Harbison, Executive Director
FROM: LaTonya Ellis, Administrative Assistant to the Executive Director
SUBJECT: Attendance for Board Meeting – August 11, 2020

Ms. Vanessa Clark, President of Preston Taylor Apartments Resident Association and Ms. Jamila Grimes, Property Manager of Preston Taylor Apartments, will be present at the Board meeting per teleconference.



LaTonya Ellis

METROPOLITAN DEVELOPMENT AND HOUSING AGENCY

INTEROFFICE MEMORANDUM

August 11, 2020

To: MDHA Board of Commissioners
From: Pat Thicklin, Assistant Director for Human Resources
Subject: MDHA Occupational Safety and Health Plan

The purpose of the Occupational Safety and Health Plan is to establish a safety and health program for MDHA employees. The program provides for a safe and healthy work environment, which promotes and encourages a proactive safety culture and create guidelines to protect MDHA employees from unsafe working conditions and injury.

In 1972, the State of Tennessee Department of Labor and Workforce established a state-level occupational safety and health program. Tennessee's private and public employers were encouraged to create occupational safety programs to maintain safe working conditions and for the health of employees. MDHA created an occupational safety and health program in compliance with the State of Tennessee directive and has continuously maintained and updated the program.

The MDHA Occupational Safety and Health Plan includes the following requirements:

1. Management commitment and employee involvement in the creation of a safe work environment;
2. Continually analyze the worksites to identify hazards and potential hazards;
3. Develop and maintain methods for preventing or controlling existing or potential hazards;
4. Training for managers, supervisors, and employees to understand standards and worksite hazards;
5. The requirement to provide and use safety equipment, personal protective equipment, and devices necessary to protect employees;
6. The fair and efficient administration of safety standards, reporting, investigation, and create an employee complaint process to address any conditions or practices which may be detrimental to employee's safety or health.

Board approval of the Agency Occupational Safety and Health Plan is requested.



Pat Thicklin

RESOLUTION NUMBER _____

RESOLUTION TO ESTABLISH AN OCCUPATIONAL SAFETY AND HEALTH PROGRAM, DEVISE RULES AND REGULATIONS, AND TO PROVIDE FOR A DIRECTOR AND THE IMPLEMENTATION OF SUCH PROGRAM

WHEREAS, in compliance with Public Chapter 561 of the General Assembly of the State of Tennessee for the year 1972, the Metropolitan Development and Housing Agency hereby establishes the "Occupational Safety and Health Program for the employees of the MDHA."

NOW THEREFORE

SECTION 1: BE IT RESOLVED BY THE MDHA Board of Commissioner that there be and is hereby created an occupational safety and health program for the employees of the MDHA as follows:

TITLE:

This section shall provide authority for establishing and administering the Occupational Safety and Health Program for the employees of MDHA.

PURPOSE:

The MDHA, in electing to update their established program plan will maintain an effective occupational safety and health program for its employees and shall:

- 1) Provide a safe and healthful place and condition of employment that includes:
 - a) Top Management Commitment and Employee Involvement;
 - b) Continually analyze the worksite to identify all hazards and potential hazards;
 - c) Develop and maintain methods for preventing or controlling existing or potential hazards; and
 - d) Train managers, supervisors, and employees to understand and deal with worksite hazards.
- 2) Acquire, maintain and require the use of safety equipment, personal protective equipment and devices reasonably necessary to protect employees.
- 3) Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development of the State of Tennessee, his designated representatives, or persons within the Tennessee Department of Labor and Workforce Development to whom such responsibilities have been delegated, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- 4) Consult with the State Commissioner of Labor and Workforce Development with regard to the adequacy of the form and content of records.
- 5) Consult with the State Commissioner of Labor and Workforce Development, as appropriate, regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be achieved under a standard promulgated by the State.
- 6) Provide reasonable opportunity for the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices injurious to employee safety and health.
- 7) Provide for education and training of personnel for the fair and efficient administration of occupational safety and health standards, and provide for education and notification of all employees of the existence of this program.

COVERAGE:

The provisions of the Occupational Safety and Health Program for the employees of the MDHA shall apply to all employees of each administrative department, commission, board, division, or other agency of the MDHA whether part-time or full-time, seasonal or permanent.

STANDARDS AUTHORIZED:

The occupational safety and health standards adopted by the MDHA are the same as, but not limited to, the

State of Tennessee Occupational Safety and Health Standards promulgated, or which may be promulgated, in accordance with Section 6 of the Tennessee Occupational Safety and Health Act of 1972 (T.C.A. Title 50, Chapter 5).

VARIANCES FROM STANDARDS AUTHORIZED:

The MDHA may, upon written application to the Commissioner of Labor and Workforce Development of the State of Tennessee, request an order granting a temporary variance from any approved standards. Applications for variances shall be in accordance with Rules of Tennessee Department of Labor and Workforce Development Occupational Safety and Health, Chapter 0800-1-2, as authorized by T.C.A., Title 5. Prior to requesting such temporary variance, the MDHA shall notify or serve notice to employees, their designated representatives, or interested parties and present them with an opportunity for a hearing. The posting of notice on the main bulletin board as designated by the MDHA shall be deemed sufficient notice to employees.

ADMINISTRATION:

For the purposes of this resolution, the Assistant Director for Human Resources, is designated as the Director of Occupational Safety and Health to perform duties and to exercise powers assigned so as to plan, develop, and administer MDHA's Occupational Safety and Health Programs. The Assistant Director shall develop a plan of operation for the program and said plan shall become a part of this resolution when it satisfies all applicable sections of the Tennessee Occupational Safety and Health Act of 1972 and Part IV of the Tennessee Occupational Safety and Health Plan.

FUNDING THE PROGRAM:

Sufficient funds for administering and staffing the program pursuant to this resolution shall be made available as authorized by the MDHA Board of Commissioners.

SEVERABILITY:

SECTION 2: BE IT FURTHER ORDAINED that if any section, sub-section, sentence, clause, phrase, or portion of this resolution is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

AMENDMENTS, ETC:

SECTION 3: BE IT FURTHER ORDAINED that this resolution shall take effect from and after the date it shall have been passed by the MDHA Board of Commissioners properly signed, certified, and has met all other legal requirements of the MDHA, and as otherwise provided by law, the general welfare of the MDHA Employees requiring it.

James Harbison, Executive Director

(Date)

Bill Purcell, MDHA Board Chair

(Date)

**PLAN OF OPERATION FOR THE OCCUPATIONAL SAFETY AND HEALTH
PROGRAM FOR THE EMPLOYEES OF MDHA**

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I. PURPOSE AND COVERAGE

The purpose of this plan is to provide guidelines and procedures for implementing the Occupational Safety and Health Program for the employees of the MDHA.

This plan is applicable to all employees, part-time or full-time, seasonal or permanent.

The MDHA in electing to update and maintain an effective occupational safety and health program for its employees will:

- a. Provide a safe and healthful place and condition of employment.
- b. Require the use of safety equipment, personal protective equipment, and other devices where reasonably necessary to protect employees.
- c. Make, keep, preserve, and make available to the Commissioner of Labor and Workforce Development, his designated representatives, or persons within the Department of Labor and Workforce Development to whom such responsibilities have been delegated, including the Director of the Division of Occupational Safety and Health, adequate records of all occupational accidents and illnesses and personal injuries for proper evaluation and necessary corrective action as required.
- d. Consult with the Commissioner of Labor and Workforce Development or his designated representative with regard to the adequacy of the form and content of such records.
- e. Consult with the Commissioner of Labor and Workforce Development regarding safety and health problems which are considered to be unusual or peculiar and are such that they cannot be resolved under an occupational safety and health standard promulgated by the State.
- f. Assist the Commissioner of Labor and Workforce Development or his monitoring activities to determine program effectiveness and compliance with the occupational safety and health standards.
- g. Make a report to the Commissioner of Labor and Workforce Development annually, or as may otherwise be required, including information on occupational accidents, injuries, and illnesses and accomplishments and progress made toward achieving the goals of the occupational safety and health program.
- h. Provide reasonable opportunity for and encourage the participation of employees in the effectuation of the objectives of this program, including the opportunity to make anonymous complaints concerning conditions or practices which may be injurious to employees' safety and health.

II. DEFINITIONS

For the purposes of this program, the following definitions apply:

- a. "COMMISSIONER OF LABOR AND WORKFORCE DEVELOPMENT" means the chief executive officer of the Tennessee Department of Labor and Workforce Development. This includes any person appointed, designated, or deputized to perform the duties or to exercise the powers assigned to the Commissioner of Labor and Workforce Development.
- b. "EMPLOYER" means the MDHA and includes each administrative department, board, commission, division, or other agency of the MDHA.

- c. "DIRECTOR OF OCCUPATIONAL SAFETY AND HEALTH" or "DIRECTOR" means the person designated by passing the resolution, to perform duties or to exercise powers assigned so as to plan, develop, and administer the occupational safety and health program for the employees of MDHA.
- d. "INSPECTOR(S)" means the individual(s) appointed or designated by the Director of Occupational Safety and Health to conduct inspections provided for herein. If no such compliance inspector(s) is appointed, inspections shall be conducted by the Director of Occupational Safety and Health.
- e. "APPOINTING AUTHORITY" means any official or group of officials of the employer having legally designated powers of appointment, employment, or removal therefrom for a specific department, board, commission, division, or other agency of this employer.
- f. "EMPLOYEE" means any person performing services for this employer and listed on the payroll of this employer, either as part-time, full-time, seasonal, or permanent. It also includes any persons normally classified as "volunteers" provided such persons received remuneration of any kind for their services. This definition shall not include independent contractors, their agents, servants, and employees.
- g. "PERSON" means one or more individual, partnership, association, corporation, business trust, or legal representative of any organized group of persons.
- h. "STANDARD" means an occupational safety and health standard promulgated by the Commissioner of Labor and Workforce Development in accordance with Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 which requires conditions or the adoption or the use of one or more practices, means, methods, operations, or processes or the use of equipment or personal protective equipment necessary or appropriate to provide safe and healthful conditions and places of employment.
- i. "IMMINENT DANGER" means any conditions or practices in any place of employment which are such that a hazard exists which could reasonably be expected to cause death or serious physical harm immediately or before the imminence of such hazard can be eliminated through normal compliance enforcement procedures.
- j. "ESTABLISHMENT" or "WORKSITE" means a single physical location under the control of this employer where business is conducted, services are rendered, or industrial type operations are performed.
- k. "SERIOUS INJURY or HARM" means that type of harm that would cause permanent or prolonged impairment of the body in that:
 1. a part of the body would be permanently removed (e.g., amputation of an arm, leg, finger(s); loss of an eye) or rendered functionally useless or substantially reduced in efficiency on or off the job (e.g., leg shattered so severely that mobility would be permanently reduced), or
 2. a part of an internal body system would be inhibited in its normal performance or function to such a degree as to shorten life or cause reduction in physical or mental efficiency (e.g., lung impairment causing shortness of breath).

On the other hand, simple fractures, cuts, bruises, concussions, or similar injuries would not fit either of these categories and would not constitute serious physical harm.

- l. "ACT" or TOSH Act" shall mean the Tennessee Occupational Safety and Health Act of 1972.

- m. "GOVERNING BODY" means the Board of Commissioners, which govern the agency, to which this plan applies.
- n. "CHIEF EXECUTIVE OFFICER" means the chief official of the agency.

III. EMPLOYER'S RIGHTS AND DUTIES

Rights and duties of the employer shall include, but are not limited to, the following provisions:

- a. Employer shall furnish to each employee conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.
- b. Employer shall comply with occupational safety and health standards and regulations promulgated pursuant to Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972.
- c. Employer shall refrain from any unreasonable restraint on the right of the Commissioner of Labor and Workforce Development to inspect the employer's place(s) of business. Employer shall assist the Commissioner of Labor and Workforce Development in the performance of their monitoring duties by supplying or by making available information, personnel, or aids reasonably necessary to the effective conduct of the monitoring activity.
- d. Employer is entitled to participate in the development of standards by submission of comments on proposed standards, participation in hearing on proposed standards, or by requesting the development of standards on a given issue under Section 6 of the Tennessee Occupational Safety and Health Act of 1972.
- e. Employer is entitled to request an order granting a variance from an occupational safety and health standard.
- f. Employer is entitled to protection of its legally privileged communication.
- g. Employer shall inspect all worksites to insure the provisions of this program are complied with and carried out.
- h. Employer shall notify and inform any employee who has been or is being exposed in a biologically significant manner to harmful agents or material in excess of the applicable standard and of corrective action being taken.
- i. Employer shall notify all employees of their rights and duties under this program.

IV. EMPLOYEE'S RIGHTS AND DUTIES

Rights and duties of employees shall include, but are not limited to, the following provisions:

- a. Each employee shall comply with occupational safety and health act standards and all rules, regulations, and orders issued pursuant to this program and the Tennessee Occupational Safety and Health Act of 1972 which are applicable to his or her own actions and conduct.
- b. Each employee shall be notified by the placing of a notice upon bulletin boards, or other places of common passage, of any application for a permanent or temporary order

granting the employer a variance from any provision of the TOSHAct or any standard or regulation promulgated under the Act.

- c. Each employee shall be given the opportunity to participate in any hearing which concerns an application by the employer for a variance from a standard or regulation promulgated under the Act.
- d. Any employee who may be adversely affected by a standard or variance issued pursuant to the Act or this program may file a petition with the Commissioner of Labor and Workforce Development or whoever is responsible for the promulgation of the standard or the granting of the variance.
- e. Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by any applicable standard shall be provided by the employer with information on any significant hazards to which they are or have been exposed, relevant symptoms, and proper conditions for safe use or exposure. Employees shall also be informed of corrective action being taken.
- f. Subject to regulations issued pursuant to this program, any employee or authorized representative of employees shall be given the right to request an inspection and to consult with the Director or Inspector at the time of the physical inspection of the worksite.
- g. Any employee may bring to the attention of the Director any violation or suspected violations of the standards or any other health or safety hazards.
- h. No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceeding or inspection under or relating to this program.
- i. Any employee who believes that he or she has been discriminated against or discharged in violation of subsection (h) of this section may file a complaint alleging such discrimination with the Director. Such employee may also, within thirty (30) days after such violation occurs, file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.
- j. Nothing in this or any other provisions of this program shall be deemed to authorize or require any employee to undergo medical examination, immunization, or treatment for those who object thereto on religious grounds, except where such is necessary for the protection of the health or safety of others, or when a medical examination may be reasonably required for performance of a specific job.
- k. Employees shall report any accident, injury, or illness resulting from their job, however minor it may seem to be, to their supervisor or the Director within twenty-four (24) hours after the occurrence.

V. ADMINISTRATION

- a. The Director of Occupational Safety and Health is designated to perform duties or to exercise powers assigned so as to administer this Occupational Safety and Health Program.
 - 1. The Director may designate person or persons as he deems necessary to carry out his powers, duties, and responsibilities under this program.

2. The Director may delegate the power to make inspections, provided procedures employed are as effective as those employed by the Director.
 3. The Director shall employ measures to coordinate, to the extent possible, activities of all departments to promote efficiency and to minimize any inconveniences under this program.
 4. The Director may request qualified technical personnel from any department or section of government to assist him in making compliance inspections, accident investigations, or as he may otherwise deem necessary and appropriate in order to carry out his duties under this program.
 5. The Director shall prepare the report to the Commissioner of Labor and Workforce Development required by subsection (g) of Section 1 of this plan.
 6. The Director shall make or cause to be made periodic and follow-up inspections of all facilities and worksites where employees of this employer are employed. He shall make recommendations to correct any hazards or exposures observed. He shall make or cause to be made any inspections required by complaints submitted by employees or inspections requested by employees.
 7. The Director shall assist any officials of the employer in the investigation of occupational accidents or illnesses.
 8. The Director shall maintain or cause to be maintained records required under Section VIII of this plan.
 9. **The Director shall, in the eventuality that there is a fatality or an accident resulting in the hospitalization of one (1) or more employees, insure that the Commissioner of Labor and Workforce Development receives notification of the occurrence within eight (8) hours.**
- b. The administrative or operational head of each department, division, board, or other agency of this employer shall be responsible for the implementation of this occupational safety and health program within their respective areas.
1. The administrative or operational head shall follow the directions of the Director on all issues involving occupational safety and health of employees as set forth in this plan.
 2. The administrative or operational head shall comply with all abatement orders issued in accordance with the provisions of this plan or request a review of the order with the Director within the abatement period.
 3. The administrative or operational head should make periodic safety surveys of the establishment under his jurisdiction to become aware of hazards or standards violations that may exist and make an attempt to immediately correct such hazards or violations.
 4. The administrative or operational head shall investigate all occupational accidents, injuries, or illnesses reported to him. He shall report such accidents, injuries, or illnesses to the Director along with his findings and/or recommendations in accordance with APPENDIX V of this plan.

VI. STANDARDS AUTHORIZED

The standards adopted under this program are the applicable standards developed and promulgated under Section VI (6) of the Tennessee Occupational Safety and Health Act of 1972 or which may, in the future, be developed and promulgated. Additional standards may be promulgated by the governing body of this employer as that body may deem necessary for the safety and health of employees.

VII. VARIANCE PROCEDURE

The Director may apply for a variance as a result of a complaint from an employee or of his knowledge of certain hazards or exposures. The Director should definitely believe that a variance is needed before the application for a variance is submitted to the Commissioner of Labor and Workforce Development.

The procedure for applying for a variance to the adopted safety and health standards is as follows:

- a. The application for a variance shall be prepared in writing and shall contain:
 1. A specification of the standard or portion thereof from which the variance is sought.
 2. A detailed statement of the reason(s) why the employer is unable to comply with the standard supported by representations by qualified personnel having first-hand knowledge of the facts represented.
 3. A statement of the steps employer has taken and will take (with specific date) to protect employees against the hazard covered by the standard.
 4. A statement of when the employer expects to comply and what steps have or will be taken (with dates specified) to come into compliance with the standard.
 5. A certification that the employer has informed employees, their authorized representative(s), and/or interested parties by giving them a copy of the request, posting a statement summarizing the application (to include the location of a copy available for examination) at the places where employee notices are normally posted and by other appropriate means. The certification shall contain a description of the means actually used to inform employees and that employees have been informed of their right to petition the Commissioner of Labor and Workforce Development for a hearing.
- b. The application for a variance should be sent to the Commissioner of Labor and Workforce Development by registered or certified mail.
- c. The Commissioner of Labor and Workforce Development will review the application for a variance and may deny the request or issue an order granting the variance. An order granting a variance shall be issued only if it has been established that:

1. The employer

- i. Is unable to comply with the standard by the effective date because of unavailability of professional or technical personnel or materials and equipment required or necessary construction or alteration of facilities or technology.
 - ii. Has taken all available steps to safeguard employees against the hazard(s) covered by the standard.
 - iii. Has an effective program for coming into compliance with the standard as quickly as possible.
2. The employee is engaged in an experimental program as described in subsection (b), section 13 of the Act.
- d. A variance may be granted for a period of no longer than is required to achieve compliance or one (1) year, whichever is shorter.
 - e. Upon receipt of an application for an order granting a variance, the Commissioner to whom such application is addressed may issue an interim order granting such a variance for the purpose of permitting time for an orderly consideration of such application. No such interim order may be effective for longer than one hundred eighty (180) days.
 - f. The order or interim order granting a variance shall be posted at the worksite and employees notified of such order by the same means used to inform them of the application for said variance (see subsection (a)(5) of this section).

VIII. RECORDKEEPING AND REPORTING

- a. Recording and reporting of all occupational accident, injuries, and illnesses shall be in accordance with instructions and on forms prescribed in the booklet, RECORDKEEPING REQUIREMENTS UNDER THE OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970 (Revised 1978) or as may be prescribed by the Tennessee Department of Labor and Workforce Development.
- b. The position responsible for recordkeeping is shown on the SAFETY AND HEALTH ORGANIZATIONAL CHART, Appendix V to this plan.
- c. Details of how reports of occupational accidents, injuries, and illnesses will reach the recordkeeper are specified by ACCIDENT REPORTING PROCEDURES, Appendix V to this plan.

IX. EMPLOYEE COMPLAINT PROCEDURE

If any employee feels that he is assigned to work in conditions which might affect his health, safety, or general welfare at the present time or at any time in the future, he should report the condition to the Director of Occupational Safety and Health.

- a. The complaint should be in the form of a letter and give details on the condition(s) and how the employee believes it affects or will affect his health, safety, or general welfare. The employee should sign the letter but need not do so if he wishes to remain anonymous (see subsection (h) of Section 1 of this plan).
- b. Upon receipt of the complaint letter, the Director will evaluate the condition(s) and institute any corrective action, if warranted. Within ten (10) working days following the receipt of the complaint, the Director will answer the complaint in writing stating whether or not the

complaint is deemed to be valid and if no, why not, what action has been or will be taken to correct or abate the condition(s), and giving a designated time period for correction or abatement. Answers to anonymous complaints will be posted upon bulletin boards or other places of common passage where the anonymous complaint may be reasonably expected to be seen by the complainant for a period of three (3) working days.

- c. If the complainant finds the reply not satisfactory because it was held to be invalid, the corrective action is felt to be insufficient, or the time period for correction is felt to be too long, he may forward a letter to the Chief Executive Officer or to the governing body explaining the condition(s) cited in his original complaint and why he believes the answer to be inappropriate or insufficient.
- d. The Chief Executive Officer or a representative of the governing body will evaluate the complaint and will begin to take action to correct or abate the condition(s) through arbitration or administrative sanctions or may find the complaint to be invalid. An answer will be sent to the complainant within ten (10) working days following receipt of the complaint or the next regularly scheduled meeting of the governing body following receipt of the complaint explaining decisions made and action taken or to be taken.
- e. After the above steps have been followed and the complainant is still not satisfied with the results, he may then file a complaint with the Commissioner of Labor and Workforce Development. Any complaint filed with the Commissioner of Labor and Workforce Development in such cases shall include copies of all related correspondence with the Director and the Chief Executive Officer or the representative of the governing body.
- f. Copies of all complaint and answers thereto will be filed by the Director who shall make them available to the Commissioner of Labor and Workforce Development or his designated representative upon request.

X. EDUCATION AND TRAINING

- a. Director and/or Compliance Inspector(s):
 - 1. Arrangements will be made for the Director and/or Compliance Inspector(s) to attend training seminars, workshops, etc., conducted by the State of Tennessee or other agencies.
 - 2. Reference materials, manuals, equipment, etc., deemed necessary for use in conducting compliance inspections, conducting local training, wiring technical reports, and informing officials, supervisors, and employees of the existence of safety and health hazards will be furnished.
- b. All Employees (including supervisory personnel):

A suitable safety and health training program for employees will be established. This program will, as a minimum:

 - 1. Instruct each employee in the recognition and avoidance of hazards or unsafe conditions and of standards and regulations applicable to the employee's work environment to control or eliminate any hazards, unsafe conditions, or other exposures to occupational illness or injury.
 - 2. Instruct employees who are required to handle poisons, acids, caustics, explosives, and other harmful or dangerous substances in the safe handling and use of such items and make them aware of the potential hazards, proper handling procedures, personal protective measures, personal hygiene, etc., which may be required.

3. Instruct employees who may be exposed to environments where harmful plants or animals are present of the hazards of the environment, how to best avoid injury or exposure, and the first aid procedures to be followed in the event of injury or exposure.
4. Instruct employees required to handle or use flammable liquids, gases, or toxic materials in their safe handling and use and make employees aware of specific requirements contained in Subparts H and M and other applicable subparts of TOSHAct standards (1910 and/or 1926).
5. Instruct employees on hazards and dangers of confined or enclosed spaces.
 - i. "Confined or enclosed space" means space having a limited means of egress and which is subject to the accumulation of toxic or flammable contaminants or has an oxygen deficient atmosphere. Confined or enclosed spaces include, but are not limited to, storage tanks, boilers, ventilation or exhaust ducts, sewers, underground utility accesses, tunnels, pipelines, and open top spaces more than four feet (4') in depth such as pits, tubs, vaults, and vessels.
 - ii. Employees will be given general instruction on hazards involved, precautions to be taken, and on use of personal protective and emergency equipment required. They shall also be instructed on all specific standards or regulations that apply to work in dangerous or potentially dangerous areas.
 - iii. The immediate supervisor of any employee who must perform work in a confined or enclosed space shall be responsible for instructing employees on danger of hazards which may be present, precautions to be taken, and use of personal protective and emergency equipment, immediately prior to their entry into such an area and shall require use of appropriate personal protective equipment.

XI. GENERAL INSPECTION PROCEDURES

It is the intention of the governing body and responsible officials to have an occupational safety and health program that will insure the welfare of employees. In order to be aware of hazards, periodic inspections must be performed. These inspections will enable the finding of hazards or unsafe conditions or operations that will need correction in order to maintain safe and healthful worksites. Inspections made on a pre-designated basis may not yield the desired results. Inspections will be conducted, therefore, on a random basis at intervals not to exceed thirty (30) calendar days.

- a. In order to carry out the purposes of this program, the Director and/or Compliance Inspector(s), if appointed, is authorized:
 1. To enter at any reasonable time, any establishment, facility, or worksite where work is being performed by an employee when such establishment, facility, or worksite is under the jurisdiction of the employer and;
 2. To inspect and investigate during regular working hours and at other reasonable times, within reasonable limits, and in a reasonable manner, any such place of employment and all pertinent conditions, processes, structures, machines, apparatus, devices, equipment, and materials therein, and to question privately any

supervisor, operator, agent, or employee working therein.

- b. If an imminent danger situation is found, alleged, or otherwise brought to the attention of the Director or Inspector during a routine inspection, he shall immediately inspect the imminent danger situation in accordance with Section XII of this plan before inspecting the remaining portions of the establishment, facility, or worksite.
- c. An administrative representative of the employer and a representative authorized by the employees shall be given an opportunity to consult with and/or to accompany the Director or Inspector during the physical inspection of any worksite for the purpose of aiding such inspection.
- d. The right of accompaniment may be denied any person whose conduct interferes with a full and orderly inspection.
- e. The conduct of the inspection shall be such as to preclude unreasonable disruptions of the operation(s) of the workplace.
- f. Interviews of employees during the course of the inspection may be made when such interviews are considered essential to investigative techniques.
- g. Advance Notice of Inspections.
 - 1. Generally, advance notice of inspections will not be given as this precludes the opportunity to make minor or temporary adjustments in an attempt to create a misleading impression of conditions in an establishment.
 - 2. There may be occasions when advance notice of inspections will be necessary in order to conduct an effective inspection or investigation. When advance notice of inspection is given, employees or their authorized representative(s) will also be given notice of the inspection.
- h. The Director need not personally make an inspection of each and every worksite once every thirty (30) days. He may delegate the responsibility for such inspections to supervisors or other personnel provided:
 - 1. Inspections conducted by supervisors or other personnel are at least as effective as those made by the Director.
 - 2. Records are made of the inspections and of any discrepancies found and are forwarded to the Director.
- i. The Director shall maintain records of inspections to include identification of worksite inspected, date of inspection, description of violations of standards or other unsafe conditions or practices found, and corrective action taken toward abatement. Said inspection records shall be subject to review by the Commissioner of Labor and Workforce Development or his authorized representative.

XII. IMMINENT DANGER PROCEDURES

- a. Any discovery, any allegation, or any report of imminent danger shall be handled in accordance with the following procedures:
 - 1. The Director shall immediately be informed of the alleged imminent danger situation and he shall immediately ascertain whether there is a reasonable basis for the

allegation.

2. If the alleged imminent danger situation is determined to have merit by the Director, he shall make or cause to be made an immediate inspection of the alleged imminent danger location.
 3. As soon as it is concluded from such inspection that conditions or practices exist which constitute an imminent danger, the Director or Compliance Inspector shall attempt to have the danger corrected. All employees at the location shall be informed of the danger and the supervisor or person in charge of the worksite shall be requested to remove employees from the area, if deemed necessary.
 4. The administrative or operational head of the workplace in which the imminent danger exists, or his authorized representative, shall be responsible for determining the manner in which the imminent danger situation will be abated. This shall be done in cooperation with the Director or Compliance Inspector and to the mutual satisfaction of all parties involved.
 5. The imminent danger shall be deemed abated if:
 - i. The imminence of the danger has been eliminated by removal of employees from the area of danger.
 - ii. Conditions or practices which resulted in the imminent danger have been eliminated or corrected to the point where an unsafe condition or practice no longer exists.
 6. A written report shall be made by or to the Director describing in detail the imminent danger and its abatement. This report will be maintained by the Director in accordance with subsection (i) of Section XI of this plan.
- b. Refusal to Abate.
1. Any refusal to abate an imminent danger situation shall be reported to the Director and/or Chief Executive Officer immediately.
 2. The Director and/or Chief Executive Officer shall take whatever action may be necessary to achieve abatement.

XIII. ABATEMENT ORDERS AND HEARINGS

Whenever, as a result of an inspection or investigation, the Director or Compliance Inspector(s) finds that a worksite is not in compliance with the standards, rules or regulations pursuant to this plan and is unable to negotiate abatement with the administrative or operational head of the worksite within a reasonable period of time, the Director shall:

1. Issue an abatement order to the head of the worksite.
 2. Post, or cause to be posted, a copy of the abatement order at or near each location, referred to in the abatement order.
- b. Abatement orders shall contain the following information:
1. The standard, rule, or regulation which was found to violated.

2. A description of the nature and location of the violation.
 3. A description of what is required to abate or correct the violation.
 4. A reasonable period of time during which the violation must be abated or corrected.
- c. At any time within ten (10) days after receipt of an abatement order, anyone affected by the order may advise the Director in writing of any objections to the terms and conditions of the order. Upon receipt of such objections, the Director shall act promptly to hold a hearing with all interested and/or responsible parties in an effort to resolve any objections. Following such hearing, the Director shall, within three (3) working days, issue an abatement order and such subsequent order shall be binding on all parties and shall be final.

XIV. PENALTIES

- a. No civil or criminal penalties shall be issued against any official, employee, or any other person for failure to comply with safety and health standards or any rules or regulations issued pursuant to this program.
- b. Any employee, regardless of status, who willfully and/or repeatedly violates, or causes to be violated, any safety and health standard, rule, or regulation or any abatement order shall be subject to disciplinary action by the appointing authority. It shall be the duty of the appointing authority to administer discipline by taking action in one of the following ways as appropriate and warranted:
 1. Oral reprimand.
 2. Written reprimand.
 3. Suspension for three (3) or more working days.
 4. Termination of employment.

XV. CONFIDENTIALITY OF PRIVILEGED INFORMATION

All information obtained by or reported to the Director pursuant to this plan of operation or the legislation (resolution, ordinance, or executive order) enabling this occupational safety and health program which contains or might reveal information which is otherwise privileged shall be considered confidential. Such information may be disclosed to other officials or employees concerned with carrying out this program or when relevant in any proceeding under this program. Such information may also be disclosed to the Commissioner of Labor and Workforce Development or their authorized representatives in carrying out their duties under the Tennessee Occupational Safety and Health Act of 1972.

XVI. COMPLIANCE WITH OTHER LAWS NOT EXCUSED

- a. Compliance with any other law, statute, resolution, or executive order, as applicable, which regulates safety and health in employment and places of employment, shall not excuse the employer, the employee, or any other person from compliance with the provisions of this program.

- b. Compliance with any provisions of this program or any standard, rule, regulation, or order issued pursuant to this program shall not excuse the employer, the employee, or any other person from compliance with the law, statute, resolution, or executive order, as applicable, regulating and promoting safety and health unless such law, statute, resolution, or executive order, as applicable, is specifically repealed.

Director, Occupational Safety and Health Programs

Date

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN – APPENDIX I

DEPARTMENTS

Human Resources 701 South Sixth Street Building C Nashville, TN 37206 Phone: (615) 252-8550	<u>5 Employees</u>
Information Technology 714 South Sixth Street Nashville, TN 37206 Phone: (615) 252-8512	<u>9 Employees</u>
Community Development 714 South Sixth Street Nashville, TN 37206 Phone: (615) 252-8505	<u>17 Employees</u>
Construction Department 714 South Sixth Street Nashville, TN 37206 Phone: (615) 252-8490	<u>13 Employees</u>
Executive Department 701 South Sixth Street Nashville, TN 37206 Phone: (615) 252-8410	<u>16 Employees</u>
Finance Department 701 South Sixth Street Nashville, TN 37206 Phone: (615) 252-8440	<u>10 Employees</u>
Recapitalization Department 701 South Sixth Street Nashville, TN 37206 Phone: (615) 252-8497	<u>11 Employees</u>
Vine Hill Apartments 601 Benton Avenue Nashville, TN 37204 Phone: (615) 252-383-5205	<u>10 Employees</u>

Preston Taylor Apartments 3900 Clifton Road Nashville, TN 37209 Phone: (615) 252-3680	<u>9 Employees</u>
Boscobel/Cayce Place Apartments 701 South 7 th Street Nashville, TN 37206 Phone: (615) 252-2280	<u>35 Employees</u>
Cheatham Place Apartments 1564 9 th Avenue North Nashville, TN 37208 Phone: (615) 252-3691	<u>10 Employees</u>
Andrew Jackson Courts 1457 Jackson Street Nashville, TN 37208 Phone: (615) 252-3708	<u>10 Employees</u>
Edgefield Manor 525 Shelby Avenue Nashville, TN 37206 Phone: (615) 252-3713	<u>6 Employees</u>
I.W. Gernert Studio Apartments 1101 Edgehill Avenue Nashville, TN 37203 Phone: (615) 252-3717	<u>3 Employees</u>
Cumberland View Apartments 2316 25 th Avenue North Nashville, TN 37208 Phone: (615) 252-3720	<u>10 Employees</u>
Hadley Park Towers 2901 John Merritt Boulevard Nashville, TN 37209 Phone: (615) 252-3724	<u>3 Employees</u>
Napier Place Apartments 648 Claiborne Nashville, TN 37210 Phone: (615) 252-2288	<u>12 Employees</u>
Madison Towers 591 N. Dupont Avenue Madison, TN 37115 Phone: (615) 252-3728	<u>7 Employees</u>

Parthenon Towers 301 28 th Avenue North Nashville, TN 37203 Phone: (615) 252-3732	<u>9 Employees</u>
Parkway Terrace 196 N. 7 th Street Nashville, TN 37206 Phone: (615) 252-3737	<u>3 Employees</u>
Neighborhood Housing 1201 Hawkins Nashville, TN 37203 Phone: (615) 252-3740	<u>16 Employees</u>
Waller Manor 106 31 st Avenue South Nashville, TN 37212 Phone: (615) 252-3734	<u>0 Employee</u>
Edgehill Apartments 1277 12 th Avenue South Nashville, TN 37203 Phone: (615) 252-2294	<u>14 Employees</u>
Sudekum Apartments 101 University Court Nashville, TN 37210 Phone: (615) 252-3660	<u>16 Employees</u>
Levy Place Apartments 303 Foster Street Nashville, TN 37207 Phone: (615) 252-3674	<u>7 Employees</u>
J. Henry Hale Apartments 1433 Jo Johnston Nashville, TN 37203 Phone: (615) 252-3667	<u>6 Employees</u>
CWA Plaza Apartments 500 Shelby Avenue Nashville, TN 37206 Phone: (615) 254-5576	<u>10 Employees</u>
Affordable Housing Central Office 701 South Sixth Street Nashville, TN 37206 Phone: (615) 252-8469	<u>38 Employees</u>

Asset Management
Asset Support
890 South 7th Street
Nashville, TN 37206
Phone: (615) 252-8467 3 Employees

Asset Management
Carpentry Shop
890 South 7th Street
Nashville, TN 37208
Phone: (615) 252-3700 6 Employees

Asset Management
Plumbing/HVAC Shop
890 South 7th Street
Nashville, TN 37206
Phone: (615) 252-3701 13 Employee

Asset Management
Mechanic Shop
890 South 7th Street
Nashville, TN 37206
Phone: (615) 252-3704 2 Employee

Asset Management
Pest Control
1419 8th Avenue North
Nashville, TN 37208
Phone: (615) 252-3715 3 Employees

Rental Assistance Department
620 Dew Street
Nashville, TN 37206
Phone: (615) 252-6500 41 Employees

Urban Development Department
35 Peabody Street Suite 301
Nashville, TN 37210 6 Employees

TOTAL NUMBER OF EMPLOYEES: 389

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN -- APPENDIX II

SAFETY AND HEALTH PROGRAM ORGANIZATIONAL CHART

Patricia M. Thicklin, Director
MDHA Occupational Safety and Health Program
Human Resources Office
701 South Sixth Street
Building C
Nashville, Tennessee 37206
Phone: (615) 252-8555

Ansona Donelson, Safety Programs
MDHA Occupational Safety and Health Program
Human Resources
701 South Sixth Street
Building C
Nashville, Tennessee 37206
Phone: (615) 252-8471

Eureka Jackson, Workers Compensation/Safety Programs
MDHA Occupational Safety and Health Program
Human Resources
701 South Sixth Street
Building C
Nashville, Tennessee 37206
Phone: (615) 252-8551

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN -- APPENDIX III

NOTICE TO ALL EMPLOYEES OF MDHA

The Tennessee Occupational Safety and Health Act of 1972 provide job safety and health protection for Tennessee's workers through the promotion of safe and healthful working conditions. Under a plan reviewed by the Tennessee Department of Labor and Workforce Development this government, as an employer, is responsible for administering the Act to its employees. Safety and health standards are the same as State standards and jobsite inspections will be conducted to insure compliance with the Act.

Employees shall be furnished conditions of employment and a place of employment free from recognized hazards that are causing or are likely to cause death or serious injury or harm to employees.

Each employee shall comply with occupational safety and health standards and all rules, regulations, and orders issued pursuant to this program which are applicable to his or her own actions and conduct.

Each employee shall be notified by the placing upon bulletin boards or other places of common passage, any application for a temporary variance from any standard or regulation.

Each employee shall be given the opportunity to participate in any hearing which concerns an application for a variance from a standard.

Any employee who may be adversely affected by a standard or variance issued pursuant to this program may file a petition with the Assistant Director for Human Resources.

Any employee who has been exposed or is being exposed to toxic materials or harmful physical agents in concentrations or at levels in excess of that provided for by an applicable standard shall be notified by the employer and informed of such exposure and corrective action being taken.

Subject to regulations issued pursuant to this program, any employee or authorized representative(s) of employees shall be given the right to request an inspection.

No employee shall be discharged or discriminated against because such employee has filed any complaint or instituted or caused to be instituted any proceedings or inspection under, or relating to, this program.

Any employee who believes he or she has been discriminated against or discharged in violation of these sections may, within thirty (30) days after such violation occurs, have an opportunity to appear in a hearing before Director of MDHA's Occupational Safety and Health Program for assistance in obtaining relief or to file a complaint with the Commissioner of Labor and Workforce Development alleging such discrimination.

A copy of the Occupational Safety and Health Program for the Employees of MDHA is available for inspection by any employee at the Human Resources Office during regular office hours.

James Harbison, Executive Director

Date

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN -- APPENDIX IV

PROGRAM BUDGET

1. Prorated portion of wages, salaries, etc., for program administration and support
2. Office space and office supplies
3. Safety and health educational materials and support for education and training
4. Safety devices for personnel safety and health
5. Equipment modifications
6. Equipment additions (facilities)
7. Protective clothing and equipment (personnel)
8. Safety and health instruments
9. Funding for projects to correct hazardous conditions
10. Reserve fund for the program
11. Contingencies and miscellaneous

TOTAL ESTIMATED PROGRAM FUNDING,

ESTIMATE OF TOTAL BUDGET FOR:

First Year

Second Year

Third Year

OR

STATEMENT OF FINANCIAL RESOURCE AVAILABILITY

Be assured that the Metropolitan Development and Housing Agency has sufficient financial resources available or will make sufficient financial resources available as may be required in order to administer and staff its Occupational Safety and Health Program and to comply with standards.

James Harbison, Executive Director

Date

OCCUPATIONAL SAFETY AND HEALTH PROGRAM PLAN -- APPENDIX V

ACCIDENT REPORTING PROCEDURES

There are six important steps required by the OSHA recordkeeping system:

1. Obtain a report on every injury/illness requiring medical treatment (other than first aid).
2. Record each injury/illness on the OSHA Form No. 300 according to the instructions provided.
3. Prepare a supplementary record of occupational injuries and illnesses for recordable cases either on OSHA Form No. 301 or on workers' compensation reports giving the same information.
4. Every year, prepare the annual summary OSHA Form No. 300A; post it no later than February 1, and keep it posted until April 30.
5. Retain these records for at least 5 years.
6. Fill out the Occupational Injury/Illness Survey and mail it to Labor Research and Statistics when requested.

(Reporting Procedures)

Employees shall report all accidents, injuries or illnesses to their supervisors immediately. The supervisors will provide the Human Resources Office with verbal or telephone report of the accident as soon as possible after the accident. The supervisor is to file the Employer's First Report of Work Injury and a Supervisor's Report with the Human Resources Office within twenty-four (24) hours after the accident occurred. If the accident involves loss of consciousness, a fatality, broken bones, severed body members or third degree burns, the Assistant Director for Human Resources will be notified by telephone immediately and will be given the name of the injured, a description of the injury, and a brief description of how the accident occurred. Notification should be immediately in the event of accidents involving a fatality or the hospitalization of three (3) or more employees.

In the event of a fatality or accidents involving the hospitalization of three (3) or more employees, it is the responsibility of the Assistant Director for Human Resources to notify by telephone, the Commission of Labor and Workforce Development within eight (8) hours.

Since a Workers' Compensation Form C20 or OSHA NO.301 Form must be completed; all reports submitted in writing to the person responsible for recordkeeping shall include the following information as a minimum:

1. Accident location, if different from employers mailing address and state whether accident occurred on premises owned or operated by employer.
2. Name, social security number, home address, age, sex, and occupation (regular job title) of injured or ill employee.
3. Title of the department or division in which the injured or ill employee is normally employed.
4. Specific description of what the employee was doing when injured.
5. Specific description of how the accident occurred.
6. A description of the injury or illness in detail and the part of the body affected.
7. Name of the object or substance which directly injured the employee.
8. Date and time of injury or diagnosis of illness.
9. Name and address of physician, if applicable.
10. If employee was hospitalized, name and address of hospital.
11. Date of report.

METROPOLITAN DEVELOPMENT AND HOUSING AGENCY

INTEROFFICE MEMORANDUM

August 4, 2020

TO: Board of Commissioners
FROM: Joseph B. Cain, Director of Urban Development
SUBJECT: PILOT Agreement – Hickory Ridge

Hickory Ridge Apartments, Phase II, LP (Developer) has acquired property located at 579 Hickory Hills Boulevard and is currently developing a 60-unit affordable housing complex. Developer has received 9% Low Income Housing Tax Credits (LIHTCs) from the Tennessee Housing Development Agency (THDA). The tax credits will result in an equity amount of \$7,865,096.

When completed, the proposed development will consist of entirely of two and three-bedroom units. 100% of the units will be subject to income and rent restrictions, the average income restriction will be no greater than 60% of area median income (AMI). Developer has submitted an application to MDHA for a Payment in Lieu of Taxes (PILOT).

The PILOT request has been reviewed by staff and is being recommended for approval. It would require Developer to make a total initial payment of \$44,674 in lieu of property taxes after the project is placed in service. The PILOT would increase by 3% annually over the 10-year life of the agreement. This PILOT payment was based on a review of the site's projected base year taxes as well as the project's development budget, operating pro forma, and debt obligations. MDHA estimates this to be a tax abatement of approximately \$60,740 for the first year the property is placed in service. For 2019, the site generated \$3,638 in annual property tax. If approved, this would leave MDHA's annual abatement capacity at \$528,684.

It is requested the Board of Commissioners approve the PILOT agreements between MDHA and Hickory Ridge Apartments Phase II LP substantially in the forms attached, and authorize the Executive Director to take the necessary steps, including submission to the Metropolitan Council, and authorize the Executive Director to execute all necessary documents for implementing the PILOT that will include property transfer and execution of leases.



Joseph B. Cain

PILOT AGREEMENT

THIS PILOT AGREEMENT (the “**PILOT Agreement**”) is made and entered into as of the _____ day of July, 2020, by and between the METROPOLITAN DEVELOPMENT AND HOUSING AGENCY (“**MDHA**”) and the Hickory Ridge Apartments, Phase II, LP (the “**Owner**”).

WITNESSETH:

WHEREAS, MDHA is a public body and a body corporate and politic organized under the Tennessee Housing Authorities Law, Tenn. Code Ann. §13-20-101, et seq., (the “**Act**”);

WHEREAS, § 13-20-104(f) of the Act provides that a metropolitan government may delegate to a housing authority the authority to negotiate and accept in lieu of ad valorem taxes (“**In Lieu of Tax Payments**”) from a party that operates a low income housing tax credit (“**LIHTC**”) property, as such term is defined in the Act (a “**LIHTC Property**”) on property leased by such party from a housing authority;

WHEREAS, MDHA is the housing authority, as defined in the Act, for the Metropolitan Government of Nashville and Davidson County, Tennessee (the “**Metropolitan Government**”);

WHEREAS, by Ordinance No. BL2015-1281 as amended by Ordinance No. BL2016-334 (collectively, the “**PILOT Ordinance**”), the Metropolitan Government (i) authorized MDHA to negotiate and accept In Lieu of Tax Payments from lessees of LIHTC Property owned by MDHA, and (ii) approved MDHA’s program for determining qualifications and eligibility for such In Lieu of Tax Payments (the “**PILOT Program**”);

WHEREAS, Owner has acquired land located at 579 Hickory Hills Boulevard and more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the “**Project Site**”);

WHEREAS, Owner intends to construct a 60 unit apartment project, known as Hickory Ridge Phase II, on the Project Site and operate it as a LIHTC Property (the “**Project**”);

WHEREAS, MDHA is authorized by law and has deemed it necessary and desirable to acquire the Project Site for the purpose of facilitating the Project in accordance with the PILOT Program, the PILOT Ordinance and the Act;

WHEREAS, the Board of Commissioners of MDHA approved MDHA’s purchase of the Project Site and authorized the Executive Director of MDHA to take all actions on behalf of MDHA to undertake the following:

- (A) acquire the Project Site;
- (B) enter into a lease with Owner pursuant to which Owner will (i) lease the Project Site and the Project from MDHA with MDHA having the right to cause Owner to purchase the Project Site and the Project from MDHA upon expiration of the tenth (10th) Tax Year, (ii) construct the Project on the Project Site, and (iii) by recorded agreement, commit to operate the Project as a LIHTC Property in accordance with the requirements of the Internal Revenue Code and the Tennessee Housing Development Agency (“THDA”) for a minimum period of fifteen (15) years after the Project is complete (the “**Project Lease**”);
- (C) enter into this PILOT Agreement;
- (D) submit this PILOT Agreement to the Metropolitan Planning Commission to obtain a recommendation of approval or disapproval, as envisioned by the PILOT Ordinance;
- (E) submit this PILOT Agreement to the Metropolitan Council of the Metropolitan Government (the “**Metropolitan Council**”) for approval as required by the PILOT Ordinance; and
- (F) take such other action and execute such other documents as the Executive Director deems necessary or desirable to facilitate construction of the Project and the transactions described above consistent with this PILOT Agreement, the Act, the Project Lease, the Metropolitan Ordinance and the PILOT Program (including MDHA’s application and policies and procedures related thereto).

WHEREAS, MDHA intends to acquire the Project Site from Owner and will concurrently enter into the Project Lease; and

WHEREAS, Owner has agreed to make In Lieu of Tax Payments with respect to the Project as described herein.

NOW, THEREFORE, for and in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties hereto, and as an inducement to Owner to construct the Project and operate the Project as LIHTC Property, MDHA and Owner agree as follows:

1. With respect to Project Site and the real property component of the Project, Owner shall make In Lieu of Tax payments to MDHA who will then remit the payment to the Metropolitan Government, as follows:

- (a) The In Lieu of Tax Payments shall be equal to the Applicable Ad Valorem Taxes, as defined below, through and including the calendar year in which the construction of the Project is completed.

(b) Commencing on January 1st of the calendar year following the year in which the Project is placed into service (“**Tax Year 1**”) and each tax year subsequent to the Tax Year 1 (Tax Year 1 and each subsequent tax year being referred to herein as a “**Tax Year**”) through the tenth (10th) Tax Year, in Lieu of Tax Payments shall be as follows:

Tax Year	In-Lieu of Tax Payment
1	\$44,674
2	\$46,014
3	\$47,395
4	\$48,816
5	\$50,281
6	\$51,789
7	\$53,343
8	\$54,943
9	\$56,592
10	\$58,289

Subject to Section 1(e) below, the In Lieu of Tax Payments shall be fixed and shall not fluctuate with the amount of the assessment for the Project Site or the Project or the tax rate in effect for any Tax Year. The amount of the In Lieu of Tax Payments is approximately equal to \$745 per unit within the Project, with a three percent (3%) annual increase.. In Lieu of Tax Payments for each Tax Year shall be paid when due but in any event not later than the date on which the Applicable Ad Valorem Taxes would become delinquent.

(c) After the tenth Tax Year, this Agreement shall expire and Owner shall pay 100% of the Applicable Ad Valorem Taxes.

(d) The term “**Applicable Ad Valorem Taxes**” shall mean any real property ad valorem taxes that, but for ownership of the Project Site and the Project by MDHA, would have been due and payable to the Metropolitan Government pursuant to Tenn. Code Ann. § 67-5-102 with respect to the Project Site and the Project.

(e) Notwithstanding anything contained herein to the contrary, if THDA or the IRS determines that the Project is not in compliance with LIHTC requirements and is therefore not operated as a LIHTC Property at any time during a Tax Year, Owner shall pay 100% of the Applicable Ad Valorem Taxes with respect to such Tax Year.

(f) Notwithstanding anything contained herein to the contrary,

Owner shall pay 100% of the Applicable Ad Valorem Taxes for the periods before Tax Year 1 and after Tax Year 10, if the Project Lease is in effect during such periods.

2. Commencing in Tax Year 1 and in each Tax Year subsequent through the (10th) Tax Year, Owner shall provide to MDHA an annual report not later than September 1st of each Tax Year containing the following information:

- (a) The value of the Project, as estimated by the Owner;
- (b) The date and remaining term of the Project Lease;
- (c) The amount of In Lieu of Tax Payments payable in such Tax Year;
- (d) The date in which the Project is scheduled to return to the regular tax rolls and be eligible to pay 100% of the Applicable Ad Valorem Taxes following the tenth (10th) Tax Year;
- (e) A calculation of the Applicable Ad Valorem Taxes for such Tax Year that, but for ownership of the Project Site and the Project by MDHA, would have been due and payable to the Metropolitan Government pursuant to Tenn. Code Ann. § 67-5-102 with respect to the Project Site and the Project;
- (f) A copy of the Owner's most recent Annual Certification as submitted to THDA, certifying compliance with LIHTC requirements; and
- (g) A copy of any monitoring or compliance reports provided by THDA to the Owner during such Tax Year.

3. Commencing with Tax Year 1 and each Tax Year thereafter, Owner shall pay to MDHA a monitoring and reporting fee to be set by MDHA but not to exceed five percent (5%) of the amount In Lieu of Tax Payment due with respect to such Tax Year (the "Annual MDHA Fee"). The Annual MDHA Fee shall be paid not later than fifteenth (15th) day of such Tax Year. Unpaid amounts shall bear interest at the rate of four percent (4%) in excess of the average prime rate of interest published from time to time by the Federal Reserve or similar commonly accepted reporting organization if the Federal Reserve ceased to publish such information. Owner's failure to pay the Annual MDHA Fee within thirty (30) days after written notice from MDHA shall constitute a default under this PILOT Agreement in which event Owner shall pay 100% of the Applicable Tax Rate for such Tax Year instead of the In Lieu of Tax Payment set forth above.

4. Owner's payment of the In Lieu of Tax Payments shall satisfy the requirement in Tenn. Code Ann. § 67-5-206(a) that MDHA pay the Metropolitan Government for services, improvements or facilities furnished by the Metropolitan Government for the benefit of the Project.

5. This PILOT Agreement may not be assigned to any party other than the

assignee of the lessee's interest under the PILOT Lease pursuant to an assignment that is made in accordance with the PILOT Lease, including MDHA consent requirements, if any, specified therein. Each permitted assignee shall assume Owner's obligations under this PILOT Agreement concurrent with the assignment of the PILOT Lease.

6. This PILOT Agreement shall be construed in accordance with the laws of the State of Tennessee, and if any one or more of the provisions of this PILOT Agreement shall be held invalid, illegal or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, legality or unenforceability shall not affect any other provision hereof, but this PILOT Agreement shall be construed the same as if such invalid, illegal or unenforceable provision had never been contained herein. This PILOT Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

7. This PILOT Agreement is subject to and conditioned upon (i) approval of this PILOT Agreement by the Metropolitan Council as required by the PILOT Ordinance, (ii) Owner's satisfaction of all conditions and requirements imposed by MDHA in connection with this PILOT Agreement or the transaction contemplated herein, (iii) MDHA taking title to the Property and entering into a mutually acceptable Project Lease, and (iv) THDA's approval of the Project and allocation of low income housing tax credits, to the extent such approval or allocation has not been received as of the date of this PILOT Agreement.

8. MDHA shall remit all In Lieu of Tax Payments received in connection with the Project and/or the Project Lease to the Metropolitan Government within fifteen (15) days of receipt.

IN WITNESS WHEREOF, the parties hereto have executed this PILOT Agreement as of the day and date first above written.

METROPOLITAN DEVELOPMENT AND HOUSING AGENCY

By: _____

Title: _____

Hickory Ridge Apartments, Phase II, LP

By: _____

Title: _____

FILED WITH THE METROPOLITAN CLERK

Elizabeth Waites

Date

EXHIBIT A

METROPOLITAN DEVELOPMENT AND HOUSING AGENCY

INTEROFFICE MEMORANDUM

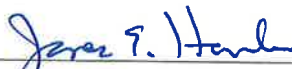
July 23, 2020

TO: Board of Commissioners
FROM: James E. Harbison, Executive Director
SUBJECT: Approval of the Public Housing Authority Plan

Over the last couple of months, we have provided the Board background and procedures for the preparation and approval of the PHA Plan, an annual submission to HUD which was mandated by Section 511 of the Quality Housing and Work Responsibility Act ("QHWRA"). Such Plans were intended to define the mission and goals of the housing authority, detail housing needs in the community, provide strategies for addressing such needs, and set forth major operating policies (deconcentration, civil rights, pet policy, admission and occupancy, etc.). The Plans discuss the operations of the Public Housing and Housing Choice Vouchers programs. Since MDHA has converted all of its existing Public Housing through the RAD process to Project Based Rental Assistance, our Plan now applies primarily to the Housing Choice Voucher program, and secondarily to any new public housing we intend to develop under our remaining Faircloth Amendment allocation.

Our current Five Year Plan was submitted and approved last year for our fiscal year beginning October 1, 2019. Our Annual Plan for the year beginning October 1, 2020 largely reports on progress we have made toward the goals and objectives in that Five Year Plan. The draft Annual plan was posted on our website and advertised for public availability for the required 45 days prior to the public hearing conducted by the Board immediately after its July 14 meeting. One public comment was received which has been attached to the Plan along with our responses.

We are now recommending that the Board of Commissioners approve the final version of the Plan, adopt the attached Resolutions, and authorize its submission to HUD


James E. Harbison

Attachments

**Streamlined Annual
PHA Plan
(High Performer PHAs)**

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB No. 2577-0226
Expires: 02/29/2016

Purpose. The 5-Year and Annual PHA Plans provide a ready source for interested parties to locate basic PHA policies, rules, and requirements concerning the PHA's operations, programs, and services, and informs HUD, families served by the PHA, and members of the public of the PHA's mission, goals and objectives for serving the needs of low- income, very low- income, and extremely low- income families

Applicability. Form HUD-50075-HP is to be completed annually by **High Performing PHAs**. PHAs that meet the definition of a Standard PHA, Troubled PHA, HCV-Only PHA, Small PHA, or Qualified PHA do not need to submit this form.

Definitions.

- (1) **High-Performer PHA** – A PHA that owns or manages more than 550 combined public housing units and housing choice vouchers, and was designated as a high performer on both of the most recent Public Housing Assessment System (PHAS) and Section Eight Management Assessment Program (SEMAP) assessments.
- (2) **Small PHA** - A PHA that is not designated as PHAS or SEMAP troubled, or at risk of being designated as troubled, and that owns or manages less than 250 public housing units and any number of vouchers where the total combined units exceeds 550.
- (3) **Housing Choice Voucher (HCV) Only PHA** - A PHA that administers more than 550 HCVs, was not designated as troubled in its most recent SEMAP assessment, and does not own or manage public housing.
- (4) **Standard PHA** - A PHA that owns or manages 250 or more public housing units and any number of vouchers where the total combined units exceeds 550, and that was designated as a standard performer in the most recent PHAS or SEMAP assessments.
- (5) **Troubled PHA** - A PHA that achieves an overall PHAS or SEMAP score of less than 60 percent.
- (6) **Qualified PHA** - A PHA with 550 or fewer public housing dwelling units and/or housing choice vouchers combined, and is not PHAS or SEMAP troubled.

A.	PHA Information.																										
A.1	<p>PHA Name: <u>Metropolitan Development and Housing Agency</u> PHA Code: <u>TN 005</u> PHA Type: <input type="checkbox"/> Small <input checked="" type="checkbox"/> High Performer PHA Plan for Fiscal Year Beginning: (MM/YYYYY): <u>10/2020</u> PHA Inventory (Based on Annual Contributions Contract (ACC) units at time of FY beginning, above) Number of Public Housing (PH) Units <u>0</u> Number of Housing Choice Vouchers (HCVs) <u>7163</u> Total Combined <u>7163</u> PHA Plan Submission Type: <input checked="" type="checkbox"/> Annual Submission <input type="checkbox"/> Revised Annual Submission</p> <p>Availability of Information. In addition to the items listed in this form, PHAs must have the elements listed below readily available to the public. A PHA must identify the specific location(s) where the proposed PHA Plan, PHA Plan Elements, and all information relevant to the public hearing and proposed PHA Plan are available for inspection by the public. Additionally, the PHA must provide information on how the public may reasonably obtain additional information of the PHA policies contained in the standard Annual Plan, but excluded from their streamlined submissions. At a minimum, PHAs must post PHA Plans, including updates, at each Asset Management Project (AMP) and main office or central office of the PHA. PHAs are strongly encouraged to post complete PHA Plans on their official website. PHAs are also encouraged to provide each resident council a copy of their PHA Plans.</p> <p><input type="checkbox"/> PHA Consortia: (Check box if submitting a Joint PHA Plan and complete table below)</p> <table border="1" style="width: 100%; border-collapse: collapse; margin-top: 10px;"> <thead> <tr> <th rowspan="2" style="width: 25%;">Participating PHAs</th> <th rowspan="2" style="width: 10%;">PHA Code</th> <th rowspan="2" style="width: 25%;">Program(s) in the Consortia</th> <th rowspan="2" style="width: 20%;">Program(s) not in the Consortia</th> <th colspan="2" style="width: 20%;">No. of Units in Each Program</th> </tr> <tr> <th style="width: 10%;">PH</th> <th style="width: 10%;">HCV</th> </tr> </thead> <tbody> <tr> <td>Lead PHA:</td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td> </td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td> </td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Participating PHAs	PHA Code	Program(s) in the Consortia	Program(s) not in the Consortia	No. of Units in Each Program		PH	HCV	Lead PHA:																	
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		PH	HCV																								
Lead PHA:																											

B. Annual Plan Elements

B.1 Revision of PHA Plan Elements.

(a) Have the following PHA Plan elements been revised by the PHA since its last **Annual PHA Plan** submission?

- | | | |
|--------------------------|-------------------------------------|--|
| Y | N | |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Statement of Housing Needs and Strategy for Addressing Housing Needs. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Deconcentration and Other Policies that Govern Eligibility, Selection, and Admissions. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Financial Resources. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Rent Determination. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Homeownership Programs. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Safety and Crime Prevention. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Pet Policy. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Substantial Deviation. |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | Significant Amendment/Modification |

(b) The PHA must submit its Deconcentration Policy for Field Office Review.

The agency's policy is to promote the development of low-income housing developments in mixed-income communities located in areas where residents of all income ranges will have access to community amenities. In compliance with HUD's requirement to affirmatively further fair housing, MDHA will continue developing mixed-income properties consisting of market (120% AMI and above), workforce (80%-120%), and low-income (below 80%) units. These properties will include the same amenities and bedroom size options for all residents regardless of income range. MDHA limits developments that are entirely low-income to properties being built for special populations with wrap-around social services, and even when the agency develops such properties, it ensures they are located in areas of opportunity or areas experiencing significant revitalization through public and/or private investment.

The agency continues to implement its policy to promote the de-concentration of poverty through the recapitalization and transformation of its largest legacy public housing site through its Envision Cayce Plan. In program year 2020, as part of this plan, MDHA is continuing construction on Red Oak Flats (102-unit apartment building, 44% which are set aside for low-income residents currently residing at Cayce Place, with the remaining consisting of a mix of workforce and market-rate residents) and Red Oak Townhomes. HUD's Office of Fair Housing & Equal Opportunity has already approved the Site and Neighborhood Review for both developments. Additionally, MDHA will continue work on two other developments (outside of the Cayce location) that will promote the de-concentration of poverty. First, it will continue construction on Randee Rogers Apartments, a 100-unit mixed-income development (50% for low-income families) located in a Census Tract which has experienced rapidly rising income levels over the last decade and contains multiple community services, including a large grocery store adjacent to the development. Second, it will continue collaborating with the Metropolitan Nashville government in developing plans for a "permanent supportive housing development" for individuals experiencing homelessness, with a site identified in downtown Nashville. The plans are to include wrap-around services as part of the development and to be managed and owned by MDHA shortly after completion.

(c) If the PHA answered yes for any element, describe the revisions for each element below:

B.2 New Activities.

(a) Does the PHA intend to undertake any new activities related to the following in the PHA's current Fiscal Year?

- | | |
|-------------------------------------|-------------------------------------|
| Y | N |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> |

(b) If any of these activities are planned for the current Fiscal Year, describe the activities. For new demolition activities, describe any public housing development or portion thereof, owned by the PHA for which the PHA has applied or will apply for demolition and/or disposition approval under section 18 of the 1937 Act under the separate demolition/disposition approval process. If using Project-Based Vouchers (PBVs), provide the projected number of project based units and general locations, and describe how project basing would be consistent with the PHA Plan.

Mixed Finance Development and Demolition

MDHA intends to continue replacing its legacy family housing with new mixed-income housing developed with combinations of Low Income Housing Tax Credits, Community Investment Tax Credit (CITC) and market-rate bank loans, HOME grants, state and federal Housing Trust Fund grants, Federally Insured multi-family loans, private donations, and MDHA equity. Most of such development will occur on properties which were formerly public housing but which had been converted to Project Based Rental Assistance through HUD's Rental Assistance Demonstration program. Implementation of this strategy will necessarily involve the demolition of existing residential buildings, although these are no longer "public housing" and will not require HUD approval under Section 18.

Conversion of Public Housing to Project-Based Assistance under RAD

Upon completion of construction of the new mixed-income housing as described in the previous paragraph, the affordable units of which will be developed as public housing under remaining eligibility of the Faircloth Amendment, MDHA will apply to have these units converted thru RAD to Project-Based Rental Assistance. Specific projects now at some stage of development include the Randee Rogers Apartments (which will have 50 units converted thru RAD), the Red Oak Townhomes (which will have 25 units converted thru RAD, and a housing project for homeless persons with wrap-around social services (which will have 85 to 100 units to be converted thru RAD). There may be additional projects initiated during the upcoming years.

Project Based Vouchers

The MDHA Board of Commissioners has previously authorized up to 1,400 of its allocation of Housing Choice Vouchers to be converted to Project Based. The Agency has issued a Request for Proposals for 900 of these units. Most of this allocation has been utilized. At this time, there is no plan to increase the Project-Based allocation beyond the current 900 units. However, the Board wishes to leave this option available should circumstances change and an additional authorization seem prudent.

B.3 Progress Report.

Provide a description of the PHA's progress in meeting its Mission and Goals described in the PHA 5-Year Plan.

Goal #1: Increase the Supply of MDHA-Owned Housing

- Objective 1a: Utilize remaining capacity (approximately 1,000 units) under the Faircloth Amendment to increase the number of public housing units (which will later be converted to Project-Based Rental Assistance).

In December of 2019, MDHA closed on the debt financing of a new apartment complex called the Randee Rogers Apartments; of the 100 units in this complex, 50 will be built as public housing under the Faircloth Amendment and will be converted through RAD to Project Based Rental Assistance.

MDHA is arranging the financing for 44 units to be known as the Red Oak Townhomes; 25 of these units will be built as public housing under the Faircloth Amendment and converted to PBRA.

Discussions have been underway with the Metropolitan Government about the development of an apartment complex with wrap-around supportive services for the homeless; currently estimated to have 86 units, all would be built as public housing under the Faircloth Amendment.

- Objective 1b: Utilize various forms of financial assistance (grants, loans, contributions, MDHA equity, etc.) to construct workforce and market-rate housing in conjunction with subsidized housing being developed so as to deconcentrate poverty.

MDHA has several mixed-income housing properties under development, each using some combination of Low Income Housing Tax Credits (LIHTC), Community Investment Tax Credit (CITC) and regular bank loans, HOME funds, state and federal housing trust fund grants, and MDHA cash equity. There include

Boscobel I (Mosley on Sixth), with 96 units (50 affordable and 46 workforce and market-rate), which began occupancy in January, financed with LIHTC, National Housing Trust Fund, CITC and market-rate bank loans, and MDHA equity;

Boscobel II (Manning Place), with 101 units (45 affordable and 56 workforce and market-rate), which is nearing completion, financed with the same tools as Boscobel I and also with HOME and Community Development Block Grant funds;

Boscobel III (Red Oak Flats), with 102 units (45 affordable and 57 workforce and market-rate), which is well into construction and is financed with the same tools as Boscobel II;

Boscobel IV, with 164 units (76 affordable and 88 workforce and market-rate) for which LIHTC funding has been applied;

Randee Rogers with 100 units (50 affordable and 50 workforce and market-rate) financed by 4% LIHTC, multi-family bonds, Public Housing Capital Funds, and Capital Spending Plan (CSP) funds from the Metropolitan Government;

And Red Oak Townhomes (44 units, with 25 affordable and 19 workforce and market-rate) being financed with CSP funds from the Metropolitan Government and a CITC bank loan.

Goal #2: Increase and Improve the Supply of and Access to Housing Choice Vouchers

- Objective 2a: Apply for replacement vouchers that become available as owners opt-out of Section 8 project-based assistance or any other voucher assistance that is made available and is suitable for MDHA.

MDHA applied for and received 9 additional HUD VASH vouchers effective 2/1/20.

Objective 2b: maximize utilization by maintaining a utilization rate of at least 99% annually.

Utilization rate for the year ended 9/30/19 was still about 88% due to the per-unit per-month funding from HUD being lower than our HAP payments; we did utilize 100% of the HUD funding provided.

- Objective 2c: Conduct at least three landlord meetings per year.
One meeting was held in April 2019. With the closing of Randee Rogers Training Center (which had been used for most larger group meetings) and the construction around the Section 8 building, a suitable alternate location was not identified. We did create an electronic version of our landlord packet for new landlords, with many forms in fillable format. This packet, the Landlord Briefing PowerPoint presentation and other detailed information is posted on the website.
- Objective 2d: Attract at least 40 new property owners to the Housing Choice Voucher program each year.
78 new landlords were added in 2019.
- Objective 2e: Increase the percentage of vouchers leased in non-impacted census tracts from 69% to 72%.
For 2019, the percentage remained at 69%.

Objective 2f: Have at least three Housing Choice Voucher clients graduate to homeownership each year.

Seven HCV participants purchased homes in 2019.

Objective 2g: Explore ways to fund and expand landlord incentive program for VASH participants to apply to other program participants

No additional funding identified that would allow us to expand program. The Metro Government's funding for this program will expire 6/30/20 and has been eliminated from

the Metro Government's FY20-21 budget. We are seeking alternative funding to allow the current program to continue.

- Objective 2h: Maintain a SEMAP score of 97 or higher.
SEMAP score for 2018-2019 was 100
- Objective 2i: In Rental Assistance, conduct staff meetings addressing quality control issues at least quarterly.
Staff meetings are held at least quarterly.
- Objective 2j: Conduct a Housing Choice Voucher program participant survey biennially.
We did not conduct a survey in 2019 as planned.
- Objective 2k: Increase the project-based voucher PBV program cap from the currently Board-approved 900.
The MDHA Board approved an increase in the cap to 1400 in April 2019. However, we have not issued a new Request for Proposals to expand the PBV program beyond the original 900.

Goal #3: Sustain Viable Communities and the Urban Core

- Objective 3a: Increase and maintain the number of Family Self-Sufficiency Voucher households to 150 participants.
The FSS program maintained 150 participants and exceeded by 3 participants. 16 FSS participants completed their Contract of Participation in 2019.
- Objective 3b: Establish 3 new partnerships annually with agencies that promote aspects of family self-sufficiency (homeownership, budget management, career development, job training and readiness, etc..)
In late 2019, MDHA received a HUD EnVision Center designation and began work to launch a one-stop-shop that emerged from a Choice Neighborhoods Planning grant in the Napier Place and Sudekum Apartments communities. Known as the Napier and Sudekum Envision Center, this site will provide transformational programming with a mission to eliminate barriers to accessing services, employ navigators to evaluate resident needs and facilitate coordination across multiple partners and facilitate successful pathways to economic self-sufficiency. Examples of services to be provided through the Envision Center include HUD-certified homebuyer and financial literacy education, on-site Vocational Rehab counselors providing career development services for individuals with disabilities and a satellite American Job Center office that provides Title 1 workforce development services and Title 2 adult education services. Envision Center is currently providing remote services during social distancing and hopes to open to the public later this year.

Also, the Rental Assistance Department established three new partnerships with Realtors Richard Smith and Catina Carney. Financial Empowerment Center, National College for the GED program
- Objective 3c: Working with new and existing partners, provide at least 4 sessions annually that focus on job training, job readiness, and employability.
The Rental Assistance Department participated in programs through Christian Community Services Incorporated (CCSI), Woodbine Community Organization, Neighborhood

Assistance Corporation of America (NACA), TN Reconnect, Affordable Housing Resources, Nashville Career Advancement Center (NCAC), Martha O'Bryan, Metro Action Commission

Goal #4: Pursue the Best Housing and Business Practices

- Objective 4a: Improve the quality and capability of Agency staff in all areas. In the first year, identify specific training needs for staff and develop a training schedule for the remaining 4 years for the department.
 - *With the transition to the RAD model of property management, MDHA has identified the need to provide training to the property management staff in the following areas:*
 - *Applications and eligibility*
 - *Customer Service*
 - *Marketing and resident retention*
 - *Recertification*
 - *Voucher Processing*
 - *Basic plumbing, HVAC and electrical maintenance*
 - *Vacancy Make ready and inspections*
 - *MDHA has established a Training University and created a partnership with Grace Hill to provide a learning management system for online training for the agency staff. Employees will be assigned a class schedule to complete required training throughout the year. After completing training, employees will receive a certificate of completion.*
 - *In addition to the agency-wide training required for all MDHA employees, several Rental Assistance staff attended training throughout 2019:*
 - *4 staff attended Fair Housing Conference in April 2019*
 - *7 staff attended TAHRA Conference in April 2019*
 - *All staff completed Cyber Awareness Training in 2019*
- Objective 4b: Integrate programs and staff from other Agency departments in housing initiatives, including RAD and Envision Cayce
This continues to be accomplished by holding Envision planning meetings involving Urban Development, Construction, Recapitalization, Community Development and Finance.
 - *RECAP Staff will continue to broaden Community and People programs in support of legacy multi-family unit properties*
 - *RECAP will broaden programs and services provided by the Sudekum-Napier Envision Center which assists with multiple programs that improve the lives and livelihood prospects at this property*
 - *Community Development programs will continue to pursue opportunities to utilize available funds to improve infrastructure and other specific allowed purposes per the Annual Plan.*
 - *The Construction office will continue to work with Affordable Housing staff to utilize Capital Funds to perform critical repairs and improvements to provide suitable and better housing opportunities for legacy properties.*

	<ul style="list-style-type: none"> ○ <i>In the Cayce Redevelopment District, Urban Development will encourage economic development through the use of Metro-Nashville provided incentives.</i> ● Objective 4c: Apply for Moving to Work designation should the opportunity arise. <i>There was an MTW Cohort opportunity, but was determined not to be a good fit for MDHA, so we did not apply</i> ● Objective 4d: Seek ways to further automate processes, digitalize forms and files. <i>Many forms and processes have been automated. Several HUD forms and other program forms are posted on the website. In response to COVID-19, we have implemented electronic means for families to report changes and are considering additional software that will allow applicants and participating families to complete re-exams online and upload required documents</i>
<p>B.4. Most Recent Fiscal Year Audit.</p>	<p>(a) Were there any findings in the most recent FY Audit?</p> <p>Y N <input checked="" type="checkbox"/> <input type="checkbox"/></p> <p>(b) If yes, please describe: <i>The audit for the year ended September 30, 2019 included a finding relating to deficiencies in a sample of tenant files (for example, miscalculation of tenant income, incorrect ceiling rent, failing to provide 30-day notice of rent increases). These were in a property which was still public housing for a portion of the fiscal year before its RAD conversion was finalized. The cited files have been reviewed and, to the extent possible, corrections were made.</i></p>
<p>Other Document and/or Certification Requirements.</p>	
<p>C.1</p>	<p>Certification Listing Policies and Programs that the PHA has Revised since Submission of its Last Annual Plan</p> <p><i>Form 50077-ST-HCV-HP, Certification of Compliance with PHA Plans and Related Regulations, must be submitted by the PHA as an electronic attachment to the PHA Plan.</i></p>
<p>C.2</p>	<p>Civil Rights Certification.</p> <p><i>Form 50077-ST-HCV-HP, Certification of Compliance with PHA Plans and Related Regulations, must be submitted by the PHA as an electronic attachment to the PHA Plan.</i></p>
<p>C.3</p>	<p>Resident Advisory Board (RAB) Comments.</p> <p>(a) Did the RAB(s) provide comments to the PHA Plan? <i>The Housing Voucher Resident Advisory Board convened on May 29, 2020 and had no comments.</i></p> <p>Y N <input type="checkbox"/> <input checked="" type="checkbox"/></p> <p>If yes, comments must be submitted by the PHA as an attachment to the PHA Plan. PHAs must also include a narrative describing their analysis of the RAB recommendations and the decisions made on these recommendations.</p>
<p>C.4</p>	<p>Certification by State or Local Officials.</p> <p><i>Form HUD 50077-SL, Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan, must be submitted by the PHA as an electronic attachment to the PHA Plan.</i></p>

D	Statement of Capital Improvements. Required in all years for all PHAs completing this form that administer public housing and receive funding from the Capital Fund Program (CFP).
D.1	<p>Capital Improvements. Include a reference here to the most recent HUD-approved 5-Year Action Plan (HUD-50075.2) and the date that it was approved by HUD.</p> <p><i>The current Five Year Plan was approved by HUD on September 26, 2019. It called for CFP funding to be used for assisting with the development of Faircloth Amendment units as are now being constructed as the Randee Rogers Apartments, described above in Section B.3 under Objective 1(a).</i></p>

Civil Rights Certification
(Qualified PHAs)

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB Approval No. 2577-0226
Expires 02/29/2016

Civil Rights Certification

Annual Certification and Board Resolution

Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official, I approve the submission of the 5-Year PHA Plan for the PHA of which this document is a part, and make the following certification and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the public housing program of the agency and implementation thereof:

The PHA certifies that it will carry out the public housing program of the agency in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990, and will affirmatively further fair housing by examining their programs or proposed programs, identifying any impediments to fair housing choice within those program, addressing those impediments in a reasonable fashion in view of the resources available and working with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and by maintaining records reflecting these analyses and actions.

Metropolitan Development and Housing Agency
PHA Name

TN 005
PHA Number/HA Code

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official **Bill Purcell**

Title **Chair of the Board of Commissioners**

Signature

Date **August 11, 2020**

Comments on the MDHA Annual Plan from **Jesse Call**, Housing Navigator, *The Contributor*

I am writing to provide a comment on the PHA Action Plan.

Prioritization of Nashvillians Experiencing Homelessness in Partnership with Coordinated Entry

I believe that MDHA should commit to prioritizing people experiencing Category 1 homelessness to move into available public housing, or RAD-PBV units, for vacancies. Homelessness continues to be a significant problem for Metropolitan Nashville & Davidson County, a problem that was only exacerbated by the COVID-19 pandemic disaster. The Continuum of Care Homelessness Planning Council has created a process for ensuring people experiencing Category 1 (sometimes called literal) homelessness are identified and verified to refer to programs. This system has worked well for referrals to the Housing Choice Voucher (HCV) program, and there is no reason it should not work just as well for public housing and PBV units.

As a county, we should be serving those living in their cars, on the streets, or in crowded emergency shelters first before those that simply seek to move to have a lower rent. Of course, both deserve some assistance, but without an adequate amount of units, that is the reason for prioritization.

MDHA Response: MDHA awards HUD Emergency Solutions Grant (ESG) funding annually to nonprofits and housing providers through a competitive request for applications (RFA) process. The funding supports services for persons experiencing homelessness through approved eligible activities which include Rapid Re-housing. The target population for the Rapid Re-Housing activity prioritizes the HUD defined "homeless" Category 1. In addition, MDHA provides U.S. Department of Housing and Urban Development (HUD) Community Development Block Grant (CDBG) funding to the Metro Homeless Impact division to cover one-time move-in costs (security and utility deposits and first month's rent) for households experiencing literal homelessness.

Even if MDHA will not commit to allocating ALL these units under a prioritization model for people experiencing homelessness, I would encourage a 50/50 ratio. For every person leased from a general list, MDHA would then lease someone experiencing homelessness and referred through the Metro Homeless Impact Division's Coordinated Entry (CE) process. This would not require additional verification work by MDHA staff, as the CE process would verify that an individual or family is eligible and experiencing homelessness. CE referrals could in fact save MDHA staff time by verifying referrals have all the necessary documents to lease up, such as identity and income verifications.

Total prioritization or a 50/50 model should also be used for HCV programs.

MDHA Response: The availability of affordable housing throughout the Middle Tennessee area is a problem that many individuals face. There are many groups that advocate for preferences in lease-up for housing (persons experiencing homelessness, persons living with mental illness, persons who have a disability, Veterans, families with children, large families, etc.). While each of these groups have meritorious reasons that support their interest in a lease-up preference, we believe the intent of our programs are to make affordable housing available to all eligible citizens on an equal basis. There are statutory provisions that allow for limiting admissions to

specific groups in some of our housing, and legislative action would be the proper course of action to modify the statutory set asides for specific target population.

It should be noted that MDHA did secure Low Income Housing Tax Credit funding for a 39-unit apartment property known as Curb Victory Hall which will serve exclusively homeless veterans; it will open in August of 2020. Also, as described in our Annual Plan, MDHA is working with the Metropolitan Government on the development of a downtown project with about 85 residential units designed for persons experiencing homelessness, with wrap-around services located on the lower floors of the building.

MDHA Staff Training Must Include More Fair Housing Training for All Front-Level Staff

As we continue to see demonstrations of systemic racism in our county's systems and with the Metropolitan Nashville Police Department killing two black men on or near MDHA property (one right in front of MDHA HQ), the amount of training and affirmative furthering of fair housing must continue. There are several ways we see racism seep into MDHA's processes without the blink of an eye of front-line staff and participating landlords.

MDHA Response: The referenced incidents involving Metropolitan Nashville Police Department should not be conflated with MDHA. MDHA was not involved in any way with the two events that resulted in the loss of life other than the fact that they occurred on or in close proximity to our properties.

This includes increasing police presence and monitoring in MDHA public housing developments instead of increasing social services, restorative justice, and healthcare.

MDHA Response: We are aware that there is a need for additional funding for social services, restorative justice, and access to affordable healthcare. Please share your concerns with your elected representatives as they determine funding priorities. While we are sensitive to complaints of "over-policing," often the over-policing argument are not advanced by the families that reside in MDHA's traditionally low income communities. The residents and Resident Association leaders of most of our sites welcome the community engagement police presence.

This includes rejecting applications from people with criminal convictions that resulted simply because they were the wrong race at the wrong time.

MDHA Response: While we certainly understand there are circumstances where folks are convicted by association, we don't have the ability to differentiate between convictions. MDHA's housing programs have a policy that prohibits violent criminal and felony drug-related conduct for three years, and prefer to see no criminal conduct for a twelve month period prior to occupancy. Even these standards are relaxed for our VASH program which serves Veterans experiencing homelessness. We review each applicant's circumstances on a case by case basis. Within in 10 days of an adverse decision, an applicant that believes they were denied improperly have an option to have their circumstances reviewed by a higher level

reviewer. If they are dissatisfied after the higher level review, they can still request review by an independent party via the grievance procedures.

This includes not being proactive about informing applicants of their rights to appeal denials of applications or terminations of subsidies and tenancies and not providing an impartial ombudsman for such complaints and issues.

MDHA Response: The appeal process for any denial or termination is covered in the tenant briefing for all approved applicants. Furthermore, any denial or termination notice includes an opportunity to appeal the decision of MDHA; a copy of their rights under the grievance policy, Violence Against Women Act, and/or the right to request a reasonable accommodation. For applicant denials, an informal review is conducted by the director or their designee, and terminations are conducted by a third-party local attorney contracted by MDHA. Policy further allows for review under special circumstances and any decision by the hearing officer is subject to appeal under certain conditions.

This includes not allowing an applicant or resident to bring others with them to assist or observe their application or recertification processes.

MDHA Response: Our application processes are online. We certainly don't deny anyone the opportunity to obtain assistance, and in fact, we offered in person assistance in the past for person having trouble with the application. Since implementing COVID-19 procedures, we have simplified and shortened the online application to avoid the need for in person assistance with the application. If someone still needs assistance, staff at the property can help over the phone. We will continue to consider requests for any reasonable accommodation for persons with a disability.

We do not have any policies that prevent residents that need assistance with recertification, or any other process, from bringing a representative to assist with process.

This includes terminating tenancies from people who have mental health emergencies that seemed "violent" only because they were not able to access or afford treatment.

MDHA Response: We certainly understand there are instances where someone suffering from a mental health emergency may have a crisis. We handle those situations on a case by case basis, but we also have responsibility to provide a peaceful living environment for all residents. Our relationship with all residents are guided by the lease agreement. If a resident violates the terms of the agreement, in order to maintain a valid agreement, we must act in accordance with the provisions set forth therein; however, with all adverse decisions (including terminations), we offer residents the opportunity to request a reasonable accommodation related to a disability.

This includes making people without income, often those with disabilities, feel worthless because they cannot find anyone to say they will contribute even \$50/month to them.

MDHA Response: The income vs. expenses are reviewed for all applicants/participants and any discrepancies may be questioned. While we understand persons experiencing homelessness may have

little or no income, when expenses exceed income, it is reasonable to request further information or documentation to support what is reported.

This includes rejecting or evicting people battling substance use disorders brought on by racial trauma, mental and developmental disabilities, or because of the discrimination they face as a gender minority or sexual minority.

MDHA Response: Same as above regarding appeal process. In addition, the Metropolitan Development and Housing Agency may waive this requirement if:

- 1. The person demonstrates to the Metropolitan Development and Housing Agency's satisfaction that the person is no longer engaging in drug-related criminal activity or abuse of alcohol;*
- 2. The person has successfully completed a supervised drug or alcohol rehabilitation program;*
- 3. The person has otherwise been rehabilitated successfully; or*
- 4. The person is participating in a supervised drug or alcohol rehabilitation program.*

MDHA must fully train its staff to truly affirmatively further fair housing not by treating everyone the same, but by treating everyone with equity and making up for systemic bias.

MDHA Response: MDHA staff attend annual Fair Housing Conference and complete annual fair housing training. In addition, we provide annual customer service training, and offer an array of online course content directed towards ensuring staff are fully aware of our expectations regarding interacting with the public. Our offices strives to provide services to all populations while taking into consideration all circumstances and complying with program requirements.

MDHA must secure or reallocate funds for landlord recruitment and incentives, and make processes easier for landlords

MDHA cannot be the only landlord participating in affordable housing or accepting vouchers, but there is a lack of incentive among many landlords to engage with voucher processes.

MDHA Response: This is an ongoing problem in the Nashville market.

There is a lot of additional paperwork that landlords must manage when coming onto voucher programs.

MDHA Response: We do require a W-9 certification and a Direct Deposit form to setup landlord account initially and this is a one-time occurrence. The Request for Tenancy Approval form is a HUD form and is required. We do not consider the paperwork to be "a lot" or excessive.

There are inspections which can often be quite delayed and time-consuming or apply standards which a landlord did not anticipate.

MDHA Response: Our policy is to schedule any requested inspection within 3-5 working days of a Request for Tenancy Approval being approved. We often will contact the owner within 1-2 working days. The inspection standards are established by HUD and MDHA does not require anything in addition to the HUD inspection standards.

Landlords can often move people in quicker, earn more money, and do less work by avoiding voucher programs.

MDHA Response: That is correct and likely will always be correct. But there are advantages that do appeal to many of our landlords, such as the assurance that the Voucher portion of the rent will be in their bank account by the first of the month.

Incentives, like those used with HUD-VASH, were greatly impactful and it is shameful that the city would choose to divest funding from this program instead of elsewhere.

MDHA Response: Metro did eliminate this funding, but MDHA is seeking alternatives and is confident we will be able to continue the incentive program for VASH participants for at least another year.

Additionally, MDHA must be more proactive in securing and enrolling landlords into voucher programs. Meetings and packets are nice, but you need an actively engaged staff to market the programs to the community of realtors.

MDHA Response: MDHA's message is always the need for more landlords and staff talk to potential landlords on a regular basis. In addition, the director of Rental Assistance serves on the Greater Nashville Apartment Association (GNAA) Board in an effort to promote the program to our key audience. We have been working closely Metro Homeless Impact Division and other agencies who conduct landlord outreach.

MDHA did hire a VASH landlord outreach coordinator a few years ago. This person conducted outreach to landlords, realtors and other organizations who members may have been landlords. They attended many meetings of those in the industry. While there was some success, it was limited. HUD eliminated funding for the position in 2018 and the position was eliminated. Should funding become available for this purpose in the future, MDHA will consider re-instating.

**Certifications of Compliance with
PHA Plans and Related Regulations
(Standard, Troubled, HCV-Only, and
High Performer PHAs)**

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing
OMB No. 2577-0226
Expires 02/29/2016

**PHA Certifications of Compliance with the PHA Plan and Related Regulations including
Required Civil Rights Certifications**

Acting on behalf of the Board of Commissioners of the Public Housing Agency (PHA) listed below, as its Chairman or other authorized PHA official if there is no Board of Commissioners, I approve the submission of the Annual PHA Plan for the PHA fiscal year beginning October 1, 2020, hereinafter referred to as "the Plan", of which this document is a part and make the following certifications and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the Plan and implementation thereof:

1. The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located.
2. The Plan contains a certification by the appropriate State or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments to Fair Housing Choice, for the PHA's jurisdiction and a description of the manner in which the PHA Plan is consistent with the applicable Consolidated Plan.
3. The PHA has established a Resident Advisory Board or Boards, the membership of which represents the residents assisted by the PHA, consulted with this Resident Advisory Board or Boards in developing the Plan, including any changes or revisions to the policies and programs identified in the Plan before they were implemented, and considered the recommendations of the RAB (24 CFR 903.13). The PHA has included in the Plan submission a copy of the recommendations made by the Resident Advisory Board or Boards and a description of the manner in which the Plan addresses these recommendations.
4. The PHA made the proposed Plan and all information relevant to the public hearing available for public inspection at least 45 days before the hearing, published a notice that a hearing would be held and conducted a hearing to discuss the Plan and invited public comment.
5. The PHA certifies that it will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
6. The PHA will affirmatively further fair housing by examining their programs or proposed programs, identifying any impediments to fair housing choice within those programs, addressing those impediments in a reasonable fashion in view of the resources available and work with local jurisdictions to implement any of the jurisdiction's initiatives to affirmatively further fair housing that require the PHA's involvement and by maintaining records reflecting these analyses and actions.
7. For PHA Plans that includes a policy for site based waiting lists:
 - The PHA regularly submits required data to HUD's 50058 PIC/IMS Module in an accurate, complete and timely manner (as specified in PIH Notice 2010-25);
 - The system of site-based waiting lists provides for full disclosure to each applicant in the selection of the development in which to reside, including basic information about available sites; and an estimate of the period of time the applicant would likely have to wait to be admitted to units of different sizes and types at each site;
 - Adoption of a site-based waiting list would not violate any court order or settlement agreement or be inconsistent with a pending complaint brought by HUD;
 - The PHA shall take reasonable measures to assure that such a waiting list is consistent with affirmatively furthering fair housing;
 - The PHA provides for review of its site-based waiting list policy to determine if it is consistent with civil rights laws and certifications, as specified in 24 CFR part 903.7(c)(1).
8. The PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
9. The PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
10. The PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.
11. The PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.
12. The PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).

13. The PHA will provide the responsible entity or HUD any documentation that the responsible entity or HUD needs to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58 or Part 50, respectively.
14. With respect to public housing the PHA will comply with Davis-Bacon or HUD determined wage rate requirements under Section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
15. The PHA will keep records in accordance with 24 CFR 85.20 and facilitate an effective audit to determine compliance with program requirements.
16. The PHA will comply with the Lead-Based Paint Poisoning Prevention Act, the Residential Lead-Based Paint Hazard Reduction Act of 1992, and 24 CFR Part 35.
17. The PHA will comply with the policies, guidelines, and requirements of OMB Circular No. A-87 (Cost Principles for State, Local and Indian Tribal Governments), 2 CFR Part 225, and 24 CFR Part 85 (Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments).
18. The PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the regulations and included in its Plan.
19. All attachments to the Plan have been and will continue to be available at all times and all locations that the PHA Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the PHA in its PHA Plan and will continue to be made available at least at the primary business office of the PHA.
22. The PHA certifies that it is in compliance with applicable Federal statutory and regulatory requirements, including the Declaration of Trust(s).

Metropolitan Development and Housing Agency
PHA Name

TN 005
PHA Number/HA Code

Annual PHA Plan for Fiscal Year 2020

5-Year PHA Plan for Fiscal Years 20__ - 20__

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. **Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).

Name of Authorized Official

Title

Bill Purcell

Chair of the Board of Commissioners

Signature

Date August 11, 2020