HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
SPECIAL ZOOM BOARD MEETING
BOARD OF COMMISSIONERS

DATE:  Wednesday, April 28, 2021 (ZOOM)

TIME:  5 p.m.

PLACE:  Housing Authority of the County of Monterey
        Central Office
        123 Rico Street
        Salinas, CA 93907

1. CALL TO ORDER (Pledge of Allegiance)

2. ROLL CALL

   Chair Kevin Healy          PRESENT    ABSENT
   Vice Chair Kathleen Ballesteros
   Commissioner Viviana Gama   ______   ______
   Commissioner Paul Miller    ______   ______
   Commissioner Francine Goodwin
   Commissioner Hans Buder     ______   ______
   Commissioner Jon Wizard     ______   ______

3. COMMENTS FROM THE PUBLIC (Due to Coronavirus please call at 5 p.m.: 831-737-9407)

4. OLD BUSINESS

   A. Resolution 3018: Authorization to Execute Documents related to Parkside One
      Development and Casanova Plaza

5. COMMISSIONER COMMENTS

6. ADJOURNMENT

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This agenda was posted on the Housing Authority’s Bulletin Boards at 123 Rico Street, Salinas, CA.
The Board of Commissioners will next meet at the Regular Board meeting on May 24, 2021 at 5 p.m..
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MEMORANDUM

TO: Board of Commissioners
THRU: Darlene Sturgeon
       Acting Executive Director
FROM: Sandy Tebbs
       Board Clerk
RE: Resolution 3018: Request authorization to Execute
    Documents related to Parkside One Development
    and Casanova Plaza
DATE: April 22, 2021

Resolution 3018 seeks HACM Board of Commissioners’ approval for all matters related to the
debt restructuring for Parkside One Development and Casanova Plaza as detailed in the
Resolution.

Additionally, the Resolution grants authority to the Executive Director to execute all documents,
certificates, and instruments on HACM’s behalf.

ACTION: Adopt Resolution 3018.
HOUSING AUTHORITY OF THE COUNTY OF MONTEREY
RESOLUTION 2018
AUTHORIZATION TO EXECUTE DOCUMENTS RELATED TO
PARKSIDE ONE DEVELOPMENT
AND
CASANOVA PLAZA

WHEREAS, on February 14, 2020, via Resolution 2020-1, concisely entitled "Authorization to Transfer Fee Simple Interest on Parkside One" the MCHI/AA Board acknowledged and approved of predevelopment measures for the first phase of Parkside Manor's redevelopment and the sale and transfer of Parkside One to Housing Authority of the County of Monterey (HACM); and

WHEREAS, on January 13, 2021, via Resolution 2987, the Board approved debt forgiveness of the loan from the Housing Authority of the County of Monterey to MCHI Affordable Acquisitions, Inc., a California nonprofit public benefit corporation ("MCHI/AA") in connection with the Parkside Manor project; and

WHEREAS, this project known as Parkside One is currently part of a multifaceted 1999 bond issue collectively known as "Housing Authority of the County of Monterey Multi-Family Mortgage Revenue Bonds (Parkside Manor & Casanova Plaza Apartments Project)", hereinafter referred to as the "Bonds"; and

WHEREAS, the Board desires to terminate the existing recorded Deed of Trust that is a lien against both the Parkside Manor and Casanova Plaza Apartments Projects in connection with the restructuring of the debt secured by this Deed of Trust; and

WHEREAS, on November 10, 2020 Parkside One (aka Parkside Phase 1 ), received a California Tax Credit Allocation Committee ("TCAC"). Reservation Letter ("RTC Letter"), that affords Parkside One $2,295,233 in federal Tax Credits annually for each of ten years (applicable percentage of 9.00% and/or estimated 3.24% for acquisition); and

WHEREAS, under the terms of the TCAC Letter Parkside One construction must commence on or before May 10, 2021 ("Construction Date"); and

WHEREAS, in order to successfully realize the Construction Date, the real estate parcels (specifically Parkside Manor in Salinas, CA and Casanova Plaza in Monterey, CA), forming the collateral of the Bonds must be independently severed from the Bonds; and

WHEREAS, in order to refinance Parkside One (aka Parkside Phase 1), pursuant to the TCAC Letter, a Parcel Map must be filed and recorded to create two new parcels, and Parcel 1 shall consist of the Parkside One project, and Parcel 2 shall consist of the Parkside Two project; and

WHEREAS, in addition to, and in conjunction with, separating the Bond's real estate collateral, the refinancing of the Casanova Plaza parcel is desired to retire the principal amount of the Bonds; and
WHEREAS, HACM desires, in order to assist in the refinancing of the Parkside One project, to enter into a Guaranty Agreement with the lender for the Parkside One project; and

WHEREAS, HACM desires, in order to assist in the refinancing of the Parkside One project, to loan an amount not greater than $375,000 to Monterey County Housing Authority Development Corporation ("HDC"), which will be unsecured, related to the portion of the 1979 loan from HACM to MCHI/AA that was forgiven by HACM related to the Parkside One project; and

WHEREAS, HACM desires, to loan an amount not greater than $375,000 to MCHI, which will be secured by a Deed of Trust on the project known as Parkside Two that is owned by MCHI/AA, related to the portion of the 1979 loan from HACM to MCHI/AA that was forgiven by HACM in connection with the Parkside Two project; and

WHEREAS, HACM desires, in order to assist in the refinancing of the Casanova Plaza project, to loan an amount not greater than $725,000 to HDC Limited Liability Company 2, related to the portion of the 1979 loan from HACM to MCHI/AA that was forgiven by HACM in connection with the Casanova Plaza project and this loan will be secured by a Deed of Trust recorded against the Casanova Plaza project, and will be subordinate to the financing provided by the lender providing the Fannie Mae DUS loan on the project;

NOW, THEREFORE, BE IT RESOLVED, that HACM's Board of Directors hereby approves of all matters referenced above, each of the loans referenced above, and the Guaranty Agreement, and hereby authorizes their Executive Director, their President, and/or their CEO to execute and deliver, on behalf of HACM, all documents, agreements, certificates and instruments necessary and to otherwise take all necessary legal and administrative actions as may be required or necessary, to comply with the directions of this resolution.

See attached signature page
Chairman

Attest:

Secretary

Date: April _____, 2021

Passed and adopted this 26th day of April 2021, upon motion of ________________, seconded by ________________,

and carried by the following vote to wit:

AYES:
NOES:
ABSENT:
ABSTAINED:
UNCONDITIONAL GUARANTY

FOR VALUE RECEIVED, and in consideration for Hudson SLP-J LLC, a Delaware limited liability company and Hudson One Parkside LP, a Delaware limited partnership (collectively, the “Limited Partner”) contributing the Capital Contribution and acquiring a 99.99% limited partnership interest in One Parkside, LP, a California limited partnership (the “Partnership”), the undersigned Monterey County Housing Authority Development Corporation, a California nonprofit public benefit corporation (“HDC”) and its Affiliates, and the Housing Authority of the County of Monterey, a public body corporate and politic of the State of California (“HACM,” and with HDC, hereinafter collectively referred to as the “Guarantor”), on a joint and several basis, unconditionally and irrevocably guarantees all obligations (including the timely payment in full of all payment obligations) of HDC Limited Liability Company 1, a California limited liability company, the general partner of the Partnership (the “General Partner”), under the Amended and Restated Agreement of Limited Partnership (the “Partnership Agreement”) of the Partnership and that certain Certification and Agreement, each dated as of May [__], 2021. All terms not defined herein shall be defined as in the Partnership Agreement. This Unconditional Guaranty is made and entered into as of May [__], 2021.

At Initial Closing, HDC shall fund a cash reserve of $1,000,000, which shall be held by the Bank, until HDC demonstrates at least a minimum net worth of $5,000,000 and minimum liquid assets of $1,500,000 (including the cash reserve of $1,000,000) per audited financial statements for the fiscal year ending June 30, 2021, or later year, which shall be in the form of unrestricted cash (such net worth and liquid asset obligation shall be referred to as the “Guarantor Net Worth and Liquidity Covenant”) as certified to by an independent accounting firm in accordance with Statements on Standards for Accounting and Review Services issued by the American Institute of Certified Public Accountants. At such time, (i) if the Guarantor Net Worth and Liquidity Covenant is met, (ii) construction is progressing on schedule and within budget, (iii) there is no default under any Project Documents, and (iv) there are no open claims or disputes between the Partnership and the Modular Contractor, HACM shall be released as a guarantor under this Unconditional Guaranty and HDC would continue as the Guarantor, subject to the continuation of the Guarantor Net Worth and Liquidity Covenant until the end of the Compliance Period.

The Guarantor covenants and agrees that neither its obligations to make payment in accordance with the terms of this Unconditional Guaranty nor any remedy for the enforcement thereof shall be impaired, modified, changed, released or limited in any manner whatsoever by any impairment, modification, change, release or limitation of the liability of the General Partner, or any remedy for the enforcement thereof resulting from the operation of any present or future provision of the bankruptcy laws or other statute, or from the decision of any court, nor shall such obligation or remedy for enforcement be impaired, modified, changed, released or limited in any manner by such event of bankruptcy. Without limiting the generality of the foregoing, the Guarantor hereby waives the rights and benefits under California Civil Code (“CC”) Section 2819, and agrees that by doing so the liability of Guarantor shall continue even if any obligations of the General Partner under the Partnership Agreement are altered in any respect or the Limited Partners’ remedies or rights against the Partnership or the General Partner are in any way waived, impaired or suspended without our consent.

Guarantor further covenants and agrees that the execution and delivery and the observance and performance of this Guaranty by said Guarantor does not and will not conflict with or result in a breach of the terms or provisions of any existing rule, regulation or order of any court or governmental body or of any indenture, agreement or instrument to which Guarantor is party, or by which it is bound, or to
which it is subject, or constitute a default thereunder, and that this Guaranty has been duly executed and delivered by Guarantor and constitutes a valid and binding Guaranty enforceable in accordance with its terms.

This Guaranty is a guaranty of payment and not of collection and is not conditioned or contingent upon the genuineness, validity, regularity or enforceability of the Partnership Agreement. Guarantor waives any right to require the Partnership or the Limited Partners to (a) proceed against the General Partner; (b) proceed against or exhaust any security held by the General Partner; or (c) pursue any other remedy in the Partnership’s or the Limited Partners’ power whatsoever. Guarantor agrees to waive any right of subrogation or reimbursement against the Partnership, the General Partner, any right of subrogation against any collateral or security provided for in the Partnership Agreement and any right of contribution against any other guarantor or pledgor unless and until all amounts due by the General Partner under the Partnership Agreement have been paid in full and the Limited Partners have released, transferred or disposed of all of its right, title and interest in any collateral or security. To the extent Guarantor’s waiver of these rights of subrogation, reimbursement or contribution as set forth herein are found by a court of competent jurisdiction to be void or voidable for any reason, Guarantor agrees that all rights of subrogation and reimbursement against the Limited Partners and all rights of subrogation against any collateral or security shall be junior and subordinate to the Limited Partners’ rights against the Partnership, the General Partner and to the Hudson Limited Partners’ right, title and interest in such collateral or security, and all rights of contribution against any other guarantor or pledgor shall be junior and subordinate to the Limited Partners’ rights against such other guarantor or pledgor.

This Guaranty shall not be subject to any reduction, limitation, impairment, revocation or termination for any reason (other than the indefeasible payment in full in cash of any indebtedness or performance of the obligations), including but not limited to any claim of waiver, release, surrender, alteration or compromise of any of the indebtedness, and shall not be subject to any defense or setoff, counterclaim, recoupment, revocation or termination whatsoever, whether by reason of the invalidity, illegality or unenforceability of the indebtedness, the obligations or otherwise. Guarantor waives all presentsments, demands for performance, notices of non-performance, protests, notices of protest, notices of dishonor, and notices of acceptance of this Guaranty. Guarantor shall be jointly and severally liable for the obligations hereunder with any other guarantor thereof. Notwithstanding the foregoing, Guarantor shall be promptly provided with copies of any notices of default and/or demands for payment delivered to the General Partner by the Limited Partners pursuant to the terms of the Partnership Agreement.

It is expressly understood and agreed that this is a continuing guaranty, and that any claim made by the Partnership or the Limited Partners against Guarantor pursuant to this Guaranty shall not preclude the Partnership or the Limited Partner from making a claim against Guarantor for future payments. Any payment made by Guarantor pursuant to this Guaranty shall satisfy the obligation of the General Partner to make such payment, as if the General Partner had made such payment itself.

The obligation hereunder of Guarantor shall (i) survive the death of the Guarantor and shall be binding upon the heirs, personal representatives and estate of such deceased Guarantor the same as though such death had not occurred; (ii) run to the benefit of any transferee or assignee of interests of either Limited Partners in the Partnership, (iii) survive the removal, withdrawal or Bankruptcy of the General Partner or the transfer of the General Partner’s interest (or a change in ownership of the General Partner) as further outlined in Section 8.12 of the Partnership Agreement and (iv) survive the dissolution of the General Partner or the Partnership. All rights, powers and remedies of the Partnership and the
Limited Partners hereunder shall be cumulative and not alternative and shall be in addition to all rights, powers and remedies given to the Partnership and the Limited Partners by law or in equity.

Guarantor represents that it has read such of the documents given in connection with the Partnership Agreement as it or he deems it necessary or desirable to read and that it or he understands the terms of the Partnership Agreement and this Guaranty and is competent to execute this Guaranty. If any provision of this Guaranty shall be held to be invalid or unenforceable either generally or as to any particular set of circumstances, all other provisions hereof shall nevertheless remain valid and enforceable in accordance with their terms.

If any clause or provision herein contained operates or would prospectively operate to invalidate this Guaranty in whole or in part, then such clauses and provisions only shall be held for naught as though not contained herein, and the remainder of the Guaranty shall remain operative and in full force and effect.

Guarantor covenants that within sixty (60) days after the close of each fiscal year of the Partnership, audited financial statements of the Guarantor prepared by accountants in accordance with generally accepted accounting principles shall be delivered to the Special Limited Partner.

Guarantor further covenants that it shall execute and deliver such further instruments and do further acts and things as may be reasonably required to carry out the intent and purposes of this Guaranty, including, but not limited to, the execution of a document reaffirming all of Guarantor’s payment obligations contained in this Guaranty for the benefit of any successor to any Limited Partner.

The Guarantor warrants having established with the Partnership, the General Partner adequate means of obtaining, on an ongoing basis, such information as the Guarantors may require concerning all matters bearing on the risk of nonpayment or nonperformance of the obligations. The Guarantor assumes sole, continuing responsibility for obtaining such information from sources other than from the Partnership or the Limited Partners. Neither the Partnership nor the Limited Partners shall have any duty to provide any information to the Guarantor.

Each Guarantor hereby waives and agrees not to assert or take advantage of (1) all duty or obligation on the part of the Limited Partners to perfect, protect, not impair, retain or enforce any security for the payment of any indebtedness or performance of any of the other obligations guaranteed hereby, or (2) the defense of the statute of limitations and all suretyship defenses and defenses in the nature thereof in any action hereunder or in any action for the collection of any indebtedness or the performance of any other obligations guaranteed hereby.

The Guarantor agrees that it shall not (1) amend any organizational document of the Guarantor, or (2) issue, sell, assign, encumber or transfer any direct or indirect ownership interest in the Guarantor or member or shareholder of the Guarantor, whether voluntary or involuntary, by operation of law or otherwise, without the Consent of the Special Limited Partner.

This Guaranty shall be construed and enforced in accordance with the laws of the State of California.

[signatures begin on following page]
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