M E M O R A N D U M

MONTEREY COUNTY HOUSING AUTHORITY DEVELOPMENT CORPORATION (HDC)

TO: Board of Directors – Monterey County Housing Authority Development Corporation (HDC)

FROM: Carolina Sahagun-Gomez, Vice-President of Development

RE: Implement the Restructuring of HDC Authorized by the Board of Directors on December 21, 2021 During Joint Special Meeting by (i) directing the newly created Restructuring Ad Hoc Committee to begin Transitioning All HDC Employees to the Housing Authority of the County of Monterey; (ii) End the Employment Contract of the current HDC President and CEO and transition to regular position under HACM; and (iii) appointing the Executive Director of the Housing Authority of the County of Monterey, or whoever holds that role including on an interim basis, as the new President and CEO of HDC

DATE: December 23, 2021

Background

The Monterey County Housing Authority Development Corporation (HDC) was created by the Housing Authority of the County of Monterey (HACM) as early as 2005 as not-for-profit 501 (c)(3) in compliance with section 501 (c) (3) of the Internal Revenue Code of 1986 and organized under California Nonprofit Public Benefits Corporation Law. HDC provides services such as property repositioning, acquisition, development and mixed-finance sourcing for and on behalf of HACM. HDC has a total seven (7) employees, one (1) of which is employed pursuant to an employment contract.

HDC is an affiliate of the Authority. HDC's Articles of Incorporation state that the "public purpose [of HDC] is the acquisition, rehabilitation, development and financing of affordable housing for low-, very-low, and moderate-income households […] for and on behalf of the Housing Authority of Monterey, the City of Soledad Housing Authority, other political subdivisions of the State of California, and nonprofit corporations." This is also stated as HDC's purpose in the HDC Amended and Restated By-Laws. The By-Laws also specify that the HDC Board is that of the HACM Board.

What's more HDC was created to advance the mission of the authority. The formation as an affiliate rather than an instrumentality has allowed the HDC to operate as a quasi-independent third party although it is considered a blended component unit of the authority for financial reporting purposes and therefore is considered, financially, to be “a part of HACM”, in the same way that other programs such as the HCV program are “a part of HACM” – at least from a financial perspective. In addition, the RAD properties are “owned” by a General Partner which is made up of HACM and HDC and RAD requirements state that HACM must maintain an interest in the converted public housing properties.

HDC has transitioned over the years to a more independent operation with separate staff, mission, policies and procedures, financial reports, office spaces, and separate bank accounts. The two organizations no longer share a “common vision”, as HDC is pursuing various development activities, beyond the original redevelopment of HACM properties, some of which go beyond the purpose noted in the Articles of Incorporation or By-Laws. In addition, the Board of Directors have noted an adversarial relationship between the two entities that is problematic operationally and makes governing the two organizations difficult.

The Board of Directors of HDC have a statutory responsibility to ensure that HDC adheres to all applicable housing authority and not-for-profit by-laws, articles of incorporation and requirements of the Ralph M. Brown Act in addition to federal procurement laws and other financial requirements. The Board also has the ability and responsibility to protect the financial solvency of HDC.

Restructuring of HDC As Authorized by the Board of Directors on December 21, 2021

HUD, the County of Monterey's Board of Supervisors, and other interested parties have expressed their concern over the management, operations, and mission drift at HDC. On December 21, 2021, a joint special meeting was held with the County of Monterey Board of Supervisors, the HACM Board of Commissioners, and the HDC Board of Directors to discuss and take affirmative action on current issues and challenges facing HDC, and options or plans to address those issues and challenges. A copy of the agenda is attached. Both the County and HACM provided presentations and staff reports addressing such concerns and challenges, which are attached to this staff report. Of specific concern are the issues raised by the HACM Board of Commissioners (which also serves as the HDC Board of Directors) a few of which are listed below (full presentation attached and incorporated herein):

- The HACM-HDC structure is atypical, dysfunctional, and detrimental to HACM’s mission
- The HACM Executive Director has no direct control over HDC: no control over HDC’s financial decision-making, staffing decisions, or strategic direction (e.g., project selection)
- HDC effectively functions as an unchecked, independent entity
- The HACM-HDC structure has resulted in a toxic atmosphere and a lack of coordinated operations between the two entities, directly undermining HACM’s mission.
- An adversarial and toxic relationship between the HACM and HDC leadership impedes collaboration
- HDC projects a negative narrative about HACM to investors, employees, and community partners
- HDC was created, in part, to cross-subsidize HACM, but has instead become a financial drain
    - HDC was created to provide HACM with additional revenue in the form of developer fees
    - In practice, revenue-sharing has been unfavorable to HACM, exacerbated by the fact that HACM is performing services for HDC (e.g., accounting) at rates that are substantially below cost
- The HACM-HDC structure has resulted in a toxic atmosphere and a lack of coordinated

operations between the two entities, directly undermining HACM's mission.

- Most of HACM's former properties are no longer under its control
  - Almost the entire portfolio (~1,700 units) has been spun off to HDC; HACM has no direct control
- Despite HACM having no direct control over HDC projects, HDC leverages HACM assets as security to finance its deals
- HDC mission drift
- HDC has been pursuing potential business opportunities outside Monterey County, even outside of California: e.g., responding to RFPs in Michigan and Alabama
- HDC is attempting to break away from HACM
- HDC leadership is seeking to alter the composition of its Board to effectuate a complete decoupling from HACM

On December 21, 2021, to address the aforementioned issues and concerns, the HDC Board of Directors passed the following motions:

(1) Create a Restructuring Ad Hoc Committee to work, in partnership with the County of Monterey and the Housing Authority of the County of Monterey, to restructure HDC;

(2) Direct HDC staff to commence an audit of HDC's finances and performance, which will be provided to HACM and the County Board of Supervisors; and

(3) Consolidate control of HDC under the Housing Authority of the County of Monterey, with the Executive Director of the Housing Authority of the County of Monterey serving as the President/CEO of HDC.

Similar motions were adopted by the Board of Commissioners of HACM, and by the Board of Supervisors of County of Monterey, evidencing the partnership, collaboration, and shared goals of the three entities. The purpose of today's meeting is to implement the HDC's motions adopted on December 21, 2021.

Consolidation of control of HDC under the Housing Authority of the County of Monterey, with the Executive Director of the Housing Authority of the County of Monterey serving as the President/CEO of HDC

The HDC President/CEO serves at the pleasure of the Board of Directors and the Board has the ability to request full transparency and require collaboration from the HDC President/CEO. Based on the exigent issues and concerns raised by the HACM Board, the County Board of Supervisors, and the HDC Board on December 21, 2021, and as discussed above, consolidating control of HDC under the Housing Authority of the County of Monterey, with the Executive Director of the Housing Authority of the County of Monterey serving as the President/CEO of HDC, is recommended, and within the authority of the HDC Board to effectuate. Also, the proposed restructuring will not allow for separate executive leadership within both entities; provided, however, the intent is to create a director level position under HACM to administer and facilitate HDC's activities, with the ultimate goal of working as one cohesive organization.

HDC and Starla Warren entered into that certain Employment Agreement between Monterey County Housing Authority Development Corporation and Starla Warren for President/CEO Services dated February 22, 2021 (Employment Contract), a copy of which is attached hereto. Pursuant to Section 8.(a) of the Employment Contract, the Board of Directors has the right at any time to terminate Ms. Warren without cause, upon 30 days' notice. Section 8. (a) also contains provisions governing severance pay upon the Board's exercise of the termination rights.

What's more, pursuant to authority set forth in Article VI, Section 6.2 and 6.4 of the HDC Amended and Restated Bylaws, (i) the officers of HDC are chosen by the Board and shall serve at the pleasure of the Board until replaced, and (ii) any officer may be removed with or without cause by the Board. A copy of the Amended and Restated Bylaws is attached.

The purpose of the HDC Restructuring Ad Hoc Committee is to transition all seven (7) HDC employees to HACM, including Ms. Warren.

Exercising the termination and replacements rights discussed above will implement and effectuate the Board's direction to bring HDC back under control of HACM as originally intended when HDC was created and as authorized and as directed by the Board of Directors on December 21, 2021.

It is in the best interest of HDC, the community, stakeholders, and HACM, for HDC to be restructured to be brought back under the direct control of HACM, and in line with standard industry practice. The restructuring should not impact any of the legal structures or ownership of the existing RAD portfolio and other HDC properties.

Staff Recommends that the HDC Board of Directors adopt the following motions:

1. Adopt motion to immediately bring HDC back under control of HACM as originally intended when HDC was created and as authorized and directed by the Board of Directors on December 21, 2021;
2. Pursuant to authority set forth in Article VI, Section 6.2 and 6.4 of the HDC Amended and Restated Bylaws, remove the existing President of HDC, Starla Warren, and make the Interim Executive Director of the Housing Authority of the County Monterey the President and CEO of HDC, effective immediately;
3. End Employment Contract and terminate the services of Starla Warren, President/CEO of HDC on thirty (30) days' notice without cause, pursuant to the authority set forth in Section 8 (a) of that certain Employment Agreement between Monterey County Housing Authority Development Corporation and Starla Warren for President/CEO Services dated February 22, 2021 (Employment Contract), promptly pay to Ms. Warren such severance pay authorized under the Employment Contract, and authorize and direct General Counsel and Special Counsel to implement the provisions of Section 8 (a) of the Employment Contract in consultation with the Board of Directors ;
4. Authorize and Direct the Chair of the Board of Directors to immediately execute and deliver, a 30-day notice of involuntary termination to Starla Warren for President/CEO in accordance with Section 8 (a) of the Employment Contract, in a form authorized and approved by General Counsel and Special Counsel;
5. Appoint the Executive Director of the Housing Authority of the County of Monterey, or whoever holds that role including on an interim basis, as the new President and CEO of HDC;
6. Direct the Restructuring Ad Hoc Committee to provide a status report to the Board of Directors within 14 days;
7. Direct staff to engage a qualified third-party consultant to prepare an audit of HDC's finances and performance, to be reviewed by the Restructuring Ad Hoc Committee to implement HDC Board direction on December 21, 2021;
8. For a period of 30 days effective immediately, (i) rescind all delegations of authority relating to all contracts and other agreements, including, but not limited to procurement and development agreements, (ii) Any contracts and agreements to be entered into by HDC or any affiliate shall require prior written consent of the Board of Directors, regardless of amount, (iii) No encumbering HDC assets or providing commitments of any kind without Board

approval, (iv) No communications with any parties (such as investors, lenders, regulators) without prior written approval by Board of Directors, or HACM Interim Executive Director, (v) All correspondence, communications, and other interactions with general counsel shall occur via email through a blind copy (BCC) to the Board and HACM Interim Executive Director;

9. Direct existing HDC President/CEO, Starla Warren, to work with interim Executive Director of HACM to transition responsibilities, records, and other information necessary and required to operate HDC;
10. Direct existing HDC President/CEO, Starla Warren, to immediately provide all passwords, access codes, account numbers, and any other information required and necessary to operate and control HDC; and
11. Direct HDC staff to provide the following information within the next 3 days, (i) an accounting of all HDC assets and liabilities in the name of HDC and any affiliates or project-level entities, (ii) certified true and correct copies of annual audits for last 3 years and form 990's for the last 3 years, (iii) identify all bank accounts of HDC and HDC affiliates and project-level entities, relating in any way to HDC or HDC assisted projects, (iv) provide a list of all authorized bank account signers, (v) provide a list of all lenders; and (vi) provide a list of contracts (procurement, development, legal, or otherwise).

Attachments:

- December 21, 2021 Joint Special Meeting Agenda
- Bylaws of the Monterey County Housing Authority Development Corporation
- Employment Agreement between Monterey County Housing Authority Development Corporation and Starla Warren for President/CEO Services dated February 22, 2021
- Econometrica, Inc., Memo dated July 29, 2021
- Monterey County, Housing and Community Development Memo dated November 30, 2021
- Housing Authority of the County of Monterey Presentation, December 21, 2021 Joint Special Meeting
- County of Monterey Letter to Grand Jury dated November 2, 2021

BYLAWS

OF THE
MONTEREY COUNTY HOUSING AUTHORITY DEVELOPMENT CORPORATION
(HDC)
STATE OF CALIFORNIA
(REVISED OCTOBER 22, 2012)

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OF

MONTEREY COUNTY HOUSING DEVELOPMENT CORPORATION,
A CALIFORNIA NONPROFIT PUBLIC BENEFIT CORPORATION

Article I

NAME

Section 1.1 The name of this corporation is Monterey County Housing Authority Development Corporation (the "**Corporation**").

Article II

OFFICES

Section 2.1 Principal Office. The principal office for the transaction of the affairs and activities of the Corporation is located at 123 Rico Street, Salinas, California 93907. The board of directors of the Corporation (the "**Board**") may change the location of the principal office. Any such change in location shall be noted on these Bylaws, or this section may be amended to state the new location.

Section 2.2. Other Offices. The Board may at any time establish branch or subordinate offices at any place or places where the Corporation is qualified to conduct its activities.

Article III

GENERAL AND SPECIFIC PURPOSES; DEDICATION OF ASSETS

Section 3.1 General Purposes. This Corporation is a nonprofit public benefit corporation and is not organized for the private gain of any person. It is organized under the California Nonprofit Public Benefit Corporation Law for charitable purposes. The general purpose of this Corporation is to have and exercise all rights and powers conferred on nonprofit corporations under the laws of California, provided that this Corporation shall not, except to an insubstantial degree, engage in any activities or exercise any powers that are not in furtherance of the primary purposes of this Corporation.

Section 3.2 Specific Purposes. The specific charitable and public purposes for which this Corporation is organized are the acquisition, rehabilitation, development, ownership and operation of affordable housing and the provision of related services for low-, very low- and moderate-income households where no adequate housing exists for such households, for and on behalf of the Housing Authority of the County of Monterey, the City of Soledad Housing Authority, other political subdivisions of the State of California, and nonprofit corporations which are exempt from federal tax under Section 501(c)(3) of the Code or successor provision, and to carry on other charitable activities associated with these goals as allowed by law.

Section 3.3 Limitation on Corporate Activities. This Corporation is organized and shall be operated exclusively for charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code") or successor provision. No substantial part of the activities of the Corporation shall consist of lobbying, carrying on propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

Section 3.4 Dedication and Disposition of Assets. The property of this Corporation is irrevocably dedicated to charitable purposes, and no part of the net income or assets of this Corporation shall ever inure to the benefit of any director or officer of this Corporation, or to the benefit of any private person. Upon the dissolution or winding up of the Corporation, its assets remaining after payment or provision for payment of all debts and liabilities of the Corporation shall be distributed for public purposes to the Housing Authority of the County of Monterey ("**Housing Authority**") or to a nonprofit fund, foundation or corporation which is organized and operated exclusively for public and charitable purposes and which has established and maintained its tax-exempt status under Section 501(c)(3) of the Code, or successor provision.

Article IV

MEMBERS

Section 4.1 No Members. The Corporation shall have no members. All corporate actions shall be approved by the Board as provided in these Bylaws, except such actions as are authorized by these Bylaws without further Board approval. All rights which would otherwise rest in a corporation's members, if any, shall rest in the directors.

Article V

DIRECTORS

Section 5.1 General Corporate Powers. Subject to any limitation set forth in the Articles of Incorporation of the Corporation, these Bylaws, the California Nonprofit Public Benefit Corporation Law and any other applicable laws, the Corporation's activities and affairs shall be managed by, and all corporate powers shall be exercised under the direction of, the Board.

Section 5.2 Specific Powers. Without prejudice to the general powers set forth in Section 5.1 of these Bylaws, but subject to the same limitations, the directors shall have the power to:

(a) Appoint and remove, all the Corporation's officers, and agents;,; prescribe powers and duties for them that are consistent with applicable law, the Corporation's Articles of Incorporation, and these Bylaws; and fix their compensation and require from them security for faithful performance of their duties;

(b) Change the Corporation's principal office or principal business office in California from one location to another;

(c) Borrow money and incur indebtedness on behalf of the Corporation, and cause to be executed and delivered for the Corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecation, and other evidences of debt and securities; and

(d) Construct, operate, maintain, improve, buy, sell, convey, assign, mortgage or lease any real estate and personal property necessary and incident to the provision of housing and related services substantially for the benefit of very low-, low-, and moderate-income persons.

Section 5.3 Authorized Number of Directors. The authorized number of directors shall be seven (7).

Section 5.4 Compensation and Reimbursement of Directors. The directors shall serve without compensation, although they may be reimbursed for their expenditures on behalf of the Corporation. Each Director shall receive a stipend of $50 for each public meeting attended. Directors shall also be eligible for mileage reimbursement.

Section 5.5 Restriction on Interested Persons as Directors. No more than forty-nine percent (49%) of the persons serving on the Board may be "interested persons." An "interested person" is (a) any person compensated by the Corporation for services rendered to it within the previous twelve (12) months, whether as a full-time or part-time employee, independent contractor, or otherwise and/or (b) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law of any such person. Any violation of the provisions of this Section 5.5 shall not affect the enforceability of any transaction entered into by the Corporation.

Section 5.6 Appointment, Term of Office and Qualification of Directors.

The directors of the Corporation shall consist of the members of the Board of Commissioners of the Housing Authority. Each director shall hold office until his or her successor is appointed.

Section 5.7 Election of Board Chair and Vice Chair. The Chair and Vice Chair shall be elected from among all the Directors at the annual meeting in October beginning in the year 2012 by nomination through motion made and seconded and voted upon by the majority of Directors present at the annual meeting. The Chair and Vice Chair shall serve one year terms with two year consecutive term limits. Then the Chair and Vice Chair must sit out at least one year before being elected to another term. The Chair and Vice Chair shall not be the same for the HACM Board of Commissioners.

Section 5.8 Resignations of Directors. Except as provided below, any director may resign by giving written notice to the President or Secretary of the Corporation. The resignation shall be effective when the notice is given or at any later time specified in the notice. Except on notice to the Attorney General of California, no director may resign if the Corporation would be left without a duly appointed director.

Section 5.9 Vacancies; Removal of Directors. Vacancies occurring on the Board of Directors due to death, removal or resignation of any director shall be filled by appointment made by the Board of Commissioners of the Housing Authority. Directors appointed by the Board of Commissioners of the Housing Authority may be removed by the Board of Commissioners of the Housing Authority with or without cause.

Section 5.10 Meetings of the Board and Compliance with the Ralph M. Brown Act. Each Director shall be given a copy of the Ralph M. Brown Act upon being elected to the Board.[1] The Ralph M. Brown Act shall apply to meetings of the Board, and any committee of the Board.[2] Meeting" includes any congregation of a majority of the members of the Board at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the Board.[3] The Annual Board meeting shall occur in October of each year at which time the Chair and Vice Chair shall be elected.

(a) Record of Proceedings. Any person attending an open and public meeting of the Board shall have the right to record the proceedings with an audio or video tape recorder or a still or motion picture camera in the absence of a reasonable finding by the Board that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute a persistent disruption of the proceedings. Any tape or film record of an open and public meeting made for whatever purpose by or at the direction of the Board shall be subject to inspection pursuant to the California Public Records Act, but notwithstanding, may be erased or destroyed thirty (30) days after the taping or recording. Any inspection of the video or tape recording shall be provided without charge on a video or tape player made available by the Board.[4]

(b) Agenda to Be Posted. At least seventy-two (72) hours before a regular meeting the Board shall post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including the items to be discussed in closed session.[5] The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to the members of the public.[6] The Agenda shall provide an opportunity for members of the public to directly address the Board on any item of interest to the public, before or during the Board's consideration of such item that is within the subject matter jurisdiction of the Board.[7]

(c) Action on Other Matters. No action or discussion shall be undertaken by the Board on any item not appearing on the posted agenda, except that members of the Board may respond briefly to statements made or questions posed by persons present. In limited circumstances, the Board may take action on items of business not appearing on the agenda, but only if one of the following conditions exists:

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[1] Government Code §54952.7.
[2] Government Code §54952(c)(1)(B).
[3] Government Code §54952.2.
[4] Government Code §54953.5.
[5] Government Code §54954.5.
[6] Government Code §54954.2.
[7] Government Code §54954.3.

(1) Upon a determination by a majority vote of the Board that an emergency situation exists; or

(2) Upon a determination by two-thirds vote of the Board that there is a need to take immediate action and that the need for action came to the attention of the Board after the agenda had been posted; or

(3) The item presented for action was posted for a prior meeting of the Board which occurred not more than five calendar days prior to the date of the proposed action and the action item was continued to the meeting at which action is being taken.[8]

Section 5.11 Special Meetings. Special meetings of the Board of Directors for any purpose or purposes may be called at any time by the President, or if he or she is absent or unable or refuses to act, by a majority of the members of the Board.[9] Written notice of the time and place of all special meetings of the Board of Directors shall be delivered personally or by any other means and shall be received by each Director, and be posted at the proposed location of the public meeting, posted on the Corporation's website, and may be printed in each local newspaper of general circulation, radio or television station requesting notice in writing at least twenty-four (24) hours before the meeting.[10] Written notice of any special meeting which is set at least one week prior to the date set for the meeting shall be mailed at least one week prior to the date set for the meeting to any person who has filed a written request for that notice.[11] Every notice for a special meeting shall provide an opportunity for members of the public to directly address the Board concerning any item that has been described in the notice for the meeting before or during consideration for that item.[12] The calling of the special meeting and the notice shall be posted at least twenty-four (24) hours prior to the special meeting in a location that is freely accessible to members of the public.[13]

Section 5.12 Emergency Meetings. In cases of an emergency, the Board may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement provided that each local newspaper of general circulation and radio or television station which has requested notice of special meetings is notified by telephone at least one hour prior to the emergency meeting. An emergency includes a work stoppage, crippling activity, or other activity that severely impairs public health, safety, or both, as determined by a majority of the members of the Board. Notwithstanding the foregoing, in cases of a dire emergency situation, the Board may hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement provided that each local newspaper of general circulation and radio or television station which has requested notice of special meetings is notified by telephone at or near the time that the members of the Board are notified of the emergency meeting. A dire emergency is a crippling disaster, mass destruction, terrorist act, or

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[8] Government Code §54954.2.
[9] Government Code §54956.
[10] Government Code §54956.
[11] Government Code §54954.1.
[12] Government Code §54954.3.
[13] Government Code §54956.

threatened terrorist activity that poses peril so immediate and significant that requiring the Board to provide one-hour notice before holding an emergency meeting under this section may endanger the public health, safety, or both, as determined by the Board. The Board shall not meet in closed session at a meeting called pursuant to this section.[14]

Section 5.13 Waiver of Notice. Notice of the meeting need not be given to any Director who signs a waiver of notice, whether before or after the meeting, or who attends the meeting without protesting prior thereto or at its commencement, the lack of notice to such Director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

Section 5.14 Continued Meeting and Notice of Adjournment. A majority of the Directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than twenty-four (24) hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the Directors who were not present at the time of the adjournment. A copy of the order of adjournment or order of continuance shall be conspicuously posted on or near the door of the meeting location within twenty-four (24) hours after the time of the adjournment, except that if the hearing is continued to a time less than twenty-four (24) hours after the time specified in the order or notice of hearing, the copy of the order or notice of continuance shall be posted immediately.[15] When a regular or adjourned regular meeting is adjourned, the resulting adjourned regular meeting is a regular meeting for all purposes.[16]

Section 5.15 Action at Meeting. Every act or decision done or made by a majority of the Directors present at a meeting duly held at which a quorum is present shall be the act of the Board of Directors. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors, if any action taken is approved by at least a majority of the required quorum for such meeting.

Section 5.16 Disclosure of Items to be Discussed in Closed Session. Prior to holding any closed session, the Board shall disclose, in an open meeting, the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as said items are listed by number or letter on the agenda. In the closed session, the Board may consider only those matters covered in the statement. After any closed session, the Board shall reconvene into open session prior to adjournment and shall make any disclosures required by Government Code Section 54957.1, or any successor section of action, taken in the closed session.[17]

Section 5.17 Notice. Notice of regular and special meetings shall be given to the directors not less than four (4) days prior to the meeting if delivered by first class mail or not less than twenty-four (24) hours prior to the meeting if the notice is delivered personally or by telephone or

[14] Government Code §54956.5.
[15] Government Code §§54955, 54955.1.
[16] Government Code §54955.
[17] Government Code §54957.7.

electronic mail. The notice shall state the date and time of the meeting and the place of the meeting if it is other than the principal office of the Corporation.

Section 5.18 Waiver of Notice to Directors. Notice of a meeting need not be given to any director who, either before or after the meeting, signs a waiver of notice, a written consent to the holding of the meeting, or an approval of the minutes of the meeting. The waiver of notice or consent need not specify the purpose of the meeting. All such waivers, consents, and approvals shall be filed with the corporate records or made a part of the minutes of the meetings. Notice of a meeting need not be given to any director who attends the meeting and does not protest, before or at the commencement of the meeting, the lack of notice to him or her.

Section 5.19 Quorum; Action by Majority. A majority of the directors currently on the Board shall constitute a quorum for the transaction of business, except to adjourn. Every action taken or decision made by a majority of the directors present at a duly held meeting at which a quorum is present shall be the act of the Board.

Section 5.20 Adjournment. A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. Notice of any adjournment to another time and place shall be given in accordance with the requirements of this Section 5.

Section 5.21 Committees of Directors. The Board may, by resolution adopted by a majority of the directors then in office, designate one or more committees, each consisting of two (2) or more directors, to serve at the pleasure of the Board. Appointments to such committees shall be by majority vote of the directors then in office. Any committee, to the extent provided in the Board's designating resolution, shall have all the authority of the Board, except that no committee, regardless of Board resolution, may:

(a) Fill vacancies on the Board or on any committee;

(b) Fix compensation of directors for serving on the Board or any committee;

(c) Amend or repeal these Bylaws;

(d) Amend or repeal any resolution of the Board which is not by its express terms so amendable or repealable;

(e) Appoint any other committees of the Board or the members of these committees.

(f) Spend corporate funds to support a nominee for director after there are more people nominated for director than can be elected.

(g) Approve any contract or transaction to which the Corporation is a party and in which one or more of its directors has a material financial interest, except as special approval is provided for in Corporations Code §5233(d)(3) of the California Corporations Code and otherwise in compliance with applicable state and federal law.

Section 5.22 Committee Meetings. Meetings and actions of committees shall be governed by and held and taken in accordance with the provisions of this Article V concerning meetings of directors, with such changes in the context of such Bylaws as are necessary to substitute the committee and its members for the Board and its members. Minutes shall be kept of each meeting of any committee and shall be filed with the corporate records. The Board may adopt rules for the governance of any committee not inconsistent with the provisions of these Bylaws concerning meetings of directors.

Section 5.23 Self-Dealing Transactions. Except as specifically provided below, the Board shall not approve a self-dealing transaction. A self-dealing transaction is one in which the Corporation is a party and in which one or more of the directors has a material financial interest, or a transaction between this Corporation and any entity in which one or more of its directors has a material financial interest. The Board may approve a self-dealing transaction if a majority of the Board, not including the self-interested director, determines that the transaction is fair and reasonable to this Corporation and, after reasonable investigation under the circumstances, determines that it could not have secured a more advantageous arrangement with reasonable effort under the circumstances.

Article VI

OFFICERS

Section 6.1 Officers of the Corporation. The officers of the Corporation shall be a President, a Vice-President, a Secretary and a Treasurer. The Corporation may also have, at the Board's discretion, additional Vice Presidents, one (1) or more assistant secretaries, and/or one (1) or more assistant financial officers. Any number of offices may be held by the same person, except that the Secretary nor the Treasurer may serve concurrently as the President.

Section 6.2 Election of Officers. The officers of the Corporation shall be chosen by the Board and shall serve at the pleasure of the Board until replaced.

Section 6.3 Other Officers. The Board may appoint or may authorize the President, or any other officer, to appoint any other officers that the Corporation may require. Each officer so appointed shall have the title, hold office for the period, have the authority, and perform the duties specified in the Bylaws or determined by the Board.

Section 6.4 Removal of Officers. Any officer may be removed with or without cause by the Board, and if the officer was appointed by an officer, by the officer who appointed him or her.

Section 6.5 Resignation of Officers. Any officer may resign at any time by giving written notice to the President or Secretary of the Corporation. The resignation shall take effect as of the date the notice is received or at any later time specified in the notice. Unless otherwise specified in the notice, the resignation need not be accepted to be effective. Any resignation as an officer shall not affect the resigning officer's position as a director of the Corporation.

Section 6.6 Vacancies in Office. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these Bylaws for regular appointments to that office. Vacancies may be filled as they occur.

Section 6.7 Reimbursement of Expenses. The Corporation may provide reimbursement for expenditures on behalf of the Corporation by its officers.

Section 6.8 President. The President shall be the Chief Executive Officer of the Corporation, shall preside at meetings of the Board and shall exercise and perform such other powers and duties as may from time to time be assigned to the President by the Board. Subject to the control of the Board, the President shall be the general manager of the Corporation and shall supervise and direct the Corporation's activities, affairs, and officers.

Section 6.9 Vice Presidents. If the President is absent or disabled, the Vice President shall perform all duties of the President. If there is more than one Vice President, the Vice President to perform such duties shall be chosen in order of his or her rank as fixed by the Board, or if, if the Vice Presidents are not ranked, be designation of the Board. When so acting, a Vice President shall have all powers of and be subject to all restrictions on the President. The Vice President(s) shall have such other powers and perform such other duties as the Board or these Bylaws may prescribe.

Section 6.10 Secretary. The Secretary of the Corporation shall have the following duties:

(a) The Secretary shall keep or cause to be kept, at the Corporation's principal office, or such other place as the Board may direct, a book of minutes of all meetings, proceedings, and actions of the Board and of committees of the Board. The minutes of the meetings shall include the time and place that each meeting was held, whether the meeting was annual, regular, or special, and, if special, how authorized and the notice given.

(b) The Secretary shall keep or cause to be kept, at the Corporation's principal office, a copy of the Corporation's Articles of Incorporation and these Bylaws, as amended to date.

(c) The Secretary shall give or cause to be given notice of all meetings of the Board and of committees of the Board required by these Bylaws to be given. The Secretary shall have such other powers and perform such other duties as the Board or the Bylaws may prescribe.

Section 6.11 Treasurer. The Treasurer Officer shall have the following duties:

(a) The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and accounts of the Corporation's funds, properties and transactions. The Treasurer shall send or cause to be given to the directors such financial statements and reports as are required to be given by law, by these Bylaws, or the Board. The books of account shall be open to inspection by any director at all reasonable times during the business hours of the Corporation.

(b) The Treasurer shall deposit, or cause to be deposited, all money and other valuables in the name and to the credit of the Corporation with such depositories as the Board may designate, shall disburse the Corporation's funds as the Board may order, shall render to the President and the Board, when requested, an account of all transactions and of the financial condition of the Corporation, and shall have other powers and perform such other duties as the Board or the Bylaws may prescribe.

Article VII

CONFLICT OF INTEREST POLICY

Section 7.1 Purpose. The purpose of the Conflict of Interest Policy (the "Policy") is to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an officer or director of the Corporation or might result in a possible excess benefit transaction. This policy is intended to supplement but not replace any applicable state and federal laws governing conflict of interest applicable to nonprofit and charitable organizations.

Section 7.2 Definitions.

(a) "Interested Person" Any director or principal officer, who has a direct or indirect financial interest, as defined below, is an interested person.

(b) "Financial Interest" A person has a financial interest if the person has, directly or indirectly, through business, investment, or family:

(1) An ownership or investment interest in any entity with which the Corporation has a transaction or arrangement;

(2) A compensation arrangement with the Corporation or with any entity or individual with which the Corporation has a transaction or arrangement; or

(3) A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the Corporation is negotiating a transaction or arrangement.

Compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial.

A financial interest is not necessarily a conflict of interest. Under 0 of this Article, a person who has a financial interest may have a conflict of interest only if the Board decides that a conflict of interest exists.

Section 7.3 Procedures.

(a) Duty to Disclose. In connection with any actual or possible conflict of interest, an interested person must disclose the existence of the financial interest and be given the opportunity to disclose all material facts to the directors considering the proposed transaction or arrangement.

(b) Determining Whether a Conflict of Interest Exists. After disclosure of the financial interest and all material facts, and after any discussion with the interested person, he/she shall leave the meeting while the determination of a conflict of interest is discussed and voted upon. The remaining Board Members shall decide if a conflict of interest exists.

(c) Procedures for Addressing the Conflict of Interest.

(1) An interested person may make a presentation at the meeting, but after the presentation, he/she shall leave the meeting during the discussion of, and the vote on, the transaction or arrangement involving the possible conflict of interest.

(2) The Chairperson of the Board shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement.

(3) After exercising due diligence, the Board shall determine whether the Corporation can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a conflict of interest.

(4) If a more advantageous transaction or arrangement is not reasonably possible under circumstances not producing a conflict of interest, the Board shall determine by a majority vote of the disinterested directors, whether the transaction or arrangement is in the Corporation's best interest, for its own benefit, and whether it is fair and reasonable. In conformity with the above determination, the Board shall make its decision as to whether to enter into the transaction or arrangement.

Section 7.4 Violations of the Conflicts of Interest Policy.

(a) If the Board has reasonable cause to believe a director or principal officer has failed to disclose actual or possible conflicts of interest, it shall inform the director or principal officer of the basis for such belief and afford the director or principal officer an opportunity to explain the alleged failure to disclose.

(b) If, after hearing the director's or principal officer's response and after making further investigation as warranted by the circumstances, the Board determines the director or principal officer has failed to disclose an actual or possible conflict of interest, it shall take appropriate disciplinary and corrective action.

(c) Records of Proceedings. The minutes of the Board shall contain:

(1) The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board's decision as to whether a conflict of interest in fact existed.

(2) The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection with the proceedings.

Section 7.5 Compensation. A voting member of the Board or a principal officer who receives compensation, directly or indirectly, from the Corporation for services other than a minimal stipend payment, is precluded from voting on matters pertaining to that member's compensation. Provided that, no voting member of the Board or principal officer or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Corporation, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

Section 7.6 Annual Statements. Each director or principal officer shall annually sign a statement which affirms such person:

(a) Has received a copy of the conflicts of interest policy;

(b) Has read and understands the policy;

(c) Has agreed to comply with the policy; and

(d) Understands the Corporation is charitable and in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Section 7.7 Periodic Reviews. To ensure the Corporation operates in a manner consistent with charitable purposes and does not engage in activities that could jeopardize its tax-exempt status, periodic reviews shall be conducted. The periodic reviews shall, at a minimum, include the following subjects:

(a) Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.

(b) Whether partnerships, joint ventures, and arrangements with management organizations conform to the Corporation's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit, or in an excess benefit transaction.

Section 7.8 Use of Outside Experts. When conducting the periodic reviews as provided for in this 0, the Corporation may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the Board of its responsibility for ensuring periodic reviews are conducted.

Article VIII

CORPORATE RECORDS AND REPORTS

Section 8.1 Maintenance of Corporate Records. The Corporation shall keep at its principal office in the State of California:

(c) Agendas and Minutes of all meetings of Directors and committees of the Board, indicating the time and place of holding such meetings, whether regular or special, how called, the notice given, and the names of those present and the proceedings thereof.

(d) Adequate and correct books and records of account, including accounts of its properties and business transactions and accounts of its assets, liabilities, receipts, disbursements, gains and losses.

(e) A copy of the Corporation's Articles of Incorporation and Bylaws as amended to date, which shall be open to inspection by the Directors of the Corporation at all reasonable times during office hours.

Section 8.2 Director's Inspection Rights. Every Director shall have the absolute right at any reasonable time to inspect and copy all books, records and documents of every kind and to inspect the physical properties of the Corporation.

Section 8.3 Public Records Act. The agendas of public meetings and any other writings, when distributed to all, or a majority of the Directors in connection with a matter subject to discussion or consideration at a public meeting are disclosable public records under the California Public Records Act and shall be made available upon request without delay, unless exempted from disclosure under the Public Records Act.[18]

Section 8.4 Right to Copy and Make Extracts. Any inspection under the provisions of this Article may be made in person or by agent or attorney and the right to inspection includes the right to copy and make extracts.

Section 8.5 Annual Report. The Board shall cause an annual report to be furnished not later than one hundred twenty (120) days after the close of the Corporation's fiscal year to all Directors of the Corporation, which report shall comply with section 6321 of the California Nonprofit Public Benefit Corporation Law and in particular without limitation shall contain the following information in appropriate detail:

(a) The assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year.

(b) The principal changes in assets and liabilities, including trust funds, during the fiscal year.

[18] Government Code §54957.5.

(c) The revenue or receipts of the Corporation, both restricted and unrestricted for particular purposes, for the fiscal year.

(d) The expenses or disbursements of the Corporation, for both general and restricted purposes, during the fiscal year.

(e) Any information required by Section 6 of this Article VIII.

The annual report shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the books and records of the Corporation.

Section 8.6 Annual Statement of Specific Transactions. This Corporation shall mail or deliver to all Directors a statement within one hundred twenty (120) days after the close of its fiscal year which briefly describes the amount and circumstances of any transaction in which the Corporation was a party, and in which any Director or officer of the Corporation had a direct or indirect material financial interest (a mere common directorship does not constitute (in and of itself) a material financial interest).

Any statement required by this Section shall briefly describe the names of the interested persons involved in such transactions, stating each person's relationship to the Corporation, the nature of such person's interest in the transaction and, where practical, the amount of such interest; provided, that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

Article IX

MISCELLANEOUS

Section 9.1 Fiscal Year. The fiscal year of this Corporation shall end each year on June 30**.**

Section 9.2 Contracts. All contracts entered into on behalf of the Corporation shall be authorized by resolution of the Board, or in the case of contracts for less than One Hundred Thousand Dollars ($100,000)], by the President of the Corporation. The Board of Directors, except as these Bylaws otherwise provide, may authorize any officer of the Corporation to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Corporation, and such authority may be general or confined to a specific instance; and unless so authorized by the Board of Directors, no officer, agent or employee shall have any power or authority to bind the Corporation by any contract or engagement, or to pledge its credit, or render it liable for any purpose or for any amount.

Section 9.3 Execution of Checks. Except as otherwise provided by law, every check, draft, promissory note, money order, or other evidence of indebtedness of the Corporation shall be signed by such individuals as are authorized by resolution of the Board.

Section 9.4 Indemnification. The Corporation shall indemnify its directors, officers, employees, and agents, including persons formerly occupying any such position, to the fullest extent permitted by law against all expenses, judgments, fines and other amounts actually and reasonably incurred by them in connection with any threatened, pending or completed action or proceeding, whether it is civil, criminal, administrative or investigative. In all cases where indemnification is sought, the Corporation shall be subject to the restrictions and requirements contained in Section 5238 of the California Corporations Code.

Section 9.5 Insurance. The Board may adopt a resolution authorizing the purchase of insurance on behalf of any director, officer, employee or agent of the Corporation against any liability asserted against or incurred by the director, officer, employee or agent in such capacity or arising out of the director's, officer's, employee's or agent's status as such, whether or not this Corporation would have the power to indemnify the director, officer, employee, or agent against that liability under law, to the extent such insurance is commercially available and it is economically feasible for the Corporation to purchase.

Section 9.6 Amendment of Bylaws. The Bylaws may be amended or repealed and new Bylaws adopted by the vote of a majority of the directors of the Board except that Sections 4.1, 5.6, 5.8, and this Section 7.8 may only be amended with approval of the Board of Commissioners of the Housing Authority. Such amended or newly adopted Bylaws shall take effect immediately.

Original Bylaws adopted on August 22, 2005
Amendment #1 – February 23, 2009
Amendment #2 – April 25, 2011
Amendment #3 – October 22, 2012

Amendment to Bylaws
of the
Monterey County Housing Authority
Development Corporation

Amendment #1

These issues were considered at the February 23, 2009, Regular Board Meeting under New Business, Item 4B, Bylaws:

Article V, Section 5.9 thru 5.15 Directors
More detailed guidance on meetings under Section 5.9 thru 5.15.

Article VII, Section 7.1 thru 7.8 Conflict of Interest Policy
The inclusion of a Conflict of Interest Policy

Article VIII, Section 8.1 thru 8.6 Corporate Records and Reports
Adding section on Corporate Records and Reports

Article IX, Section 9.1 thru 9.6 Miscellaneous
Miscellaneous Section containing information on fiscal year end, contracts, execution of checks, Indemnification, Insurance and Amendment of Bylaws

Amendment to Bylaws
of the
Monterey County Housing Authority
Development Corporation

<u>Amendment #2</u>

The issue was considered at the March 21, 2011, Regular Board Meeting under New Business, Item 5A. Director Styles requested that legal counsel attend the next board meeting for discussion and requested that this item be tabled.

The issue was reconsidered at the April 25, 2011, Regular Board Meeting under Old Business, Item 6A1 & 6A2. Three motions were made:

Board Action 1: The Board approved changing the Vice President/Chief Financial Officer position to Vice President and Treasurer.

Board Action 2: The Board appointed new officers Kimmy Nguyen as Secretary and Lynn Santos as Treasurer.

Board Action 3: The Board ratified the Bylaws to reflect the stipend for the Directors.

Amendment to Bylaws
of the
Monterey County Housing Authority
Development Corporation

Amendment #3

These issues were considered at the October 22, 2012, Annual Board Meeting under New Business, Item 6B, Change to Bylaws Relative to Annual Elections and Meeting.

Article V, Section 5.1 thru 5.23 Directors
A review of the existing Bylaws revealed no guidance on an annual meeting and election of Chair and Vice Chair.

- Added Section 5.7 Election of Board Chair & Vice Chair

- Added line to Section 5.10 Meetings of the Board and Compliance with the Ralph M. Brown Act

Note: There was also clean-up work on the bylaws (formatting, numbering, etc.)

MONTEREY COUNTY
HOUSING AND COMMUNITY DEVELOPMENT
Erik V. Lundquist, AICP, Director

HOUSING, PLANNING, BUILDING, ENGINEERING, ENVIRONMENTAL SERVICES
1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

(831)755-5025
www.co.monterey.ca.us

MEMORANDUM

Date: November 30, 2021

To: Chair Askew and Board of Supervisors

From: Erik Lundquist, AICP, Director *Erik V. Lundquist*

cc: Charles McKee, County Administrative Officer
Nick Chiulos, Assistant County Administrative Officer
Wendy Strimling, Assistant County Counsel
Kristi Markey, Deputy County Counsel IV
Darby Marshall, Redevelopment & Housing Analyst II

Subject: **Housing Authority of the County of Monterey**

Purpose

The purpose of this memorandum is to provide general background on Housing Authorities and the Housing Authority of the County of Monterey (HACM). The memorandum also discusses options to address the existing HACM operations.

Background on Housing Authorities

Public housing has a unique administrative structure that pairs local administration and local discretion with federal funding and federal regulations. Public housing properties are owned and managed by quasi-governmental local public housing authorities (PHAs). PHAs have contracts, called Annual Contributions Contracts (ACCs), with the federal government. Under the terms of their contracts, PHAs agree to administer their properties according to federal rules and regulations, and in exchange they receive federal funding for operations and capital.

PHAs were, for the most part, created by states in response to the federal government's creation of the low-rent public housing program. Their authorities and structures are dictated by the state laws under which they were chartered. PHAs typically have an executive director as well as a governing board. The board generally has members appointed by local government officials, but it may also have elected members. The board's role is generally to approve policy, clarify goals, and delegate responsibility and authority to the executive director, who acts on its behalf. While PHAs' governing structures are dictated primarily by their state charters, federal law mandates that, unless otherwise exempted, PHA boards must include at least one resident.

There are over 3,000 PHAs. Part of the reason there are so many small PHAs is the way they were created by states; they were typically tied to a specific locality, such as a county or unit of local government. In recent years, there has been an increase in the number of smaller PHAs that have merged or formed consortia. In some cases, these mergers or consortia are designed to allow the agencies' programs, particularly the Section 8 voucher program, to be administered across a metropolitan region that crosses jurisdictional boundaries. In other cases, these mergers and consortia are meant to reduce administrative costs. For example, by requiring only one executive director for the consortia instead of one for each PHA would achieve efficiencies of scale. Academic researchers, as well as the Bush and Obama Administrations, have encouraged further PHA consolidation. However, PHA consolidation can lead to a loss of local control for municipalities, and may therefore be unpopular with local leaders.

As indicated, Housing Authorities have two primary functions: the construction and operation of public housing, including farmworker housing, and distribution of rent subsidy vouchers (i.e., Section 8 Project-Based Rental Assistance and Housing Choice Vouchers). The federal government funds public housing through two main streams: (1) the Public Housing Operating Fund, which is intended to cover the gap between the rents that public housing tenants pay and the developments' operating costs (such as maintenance and security); and (2) the Public Housing Capital Fund, which funds renovation of developments and replacement of items such as appliances and heating and cooling equipment. The U.S. Department of Housing and Urban Development (HUD) is responsible for promulgating all regulations governing the public housing program.

As a condition of receiving federal funds, PHAs agree to administer their low-rent public housing properties according to federal rules and regulations. However, those rules and regulations give PHAs the discretion to develop their own local policies and procedures in many aspects of the program. Those local policies and procedures must be included in the PHAs' plans. PHA plans are meant to provide information about how PHAs administer both their public housing and voucher programs as well as their intentions for the future. Non-Qualified PHAs are required to establish two plans: the five-year plan and the annual plan. The PHA plans can be a valuable resource. According to HUD's regulations:

> *The purpose of the plans is to provide a framework for local accountability and an easily identifiable source by which public housing residents, participants in the tenant-based assistance program, and other members of the public may locate basic PHA policies, rules and requirements concerning the PHA's operations, programs and services. (24 C.F.R. 903.3)*

Furthermore, policy direction and responsibility for managing the operations of housing authorities are the responsibility of a Board of Commissioners. Depending on the jurisdiction's experience with its housing authority and how the jurisdiction sees the housing authority's mission complimenting its own goals, the jurisdiction may appoint itself (the city council or Board of Supervisors) as the Board of Commissioners or it may establish a Community Development Commission to operate the housing authority with an independent Board of Commissioners (California Health and Safety Code section 34115 et seq.). The Health and Safety Code does include specific requirements that at least two members of the Board of Commissioners be residents of public housing and at least one must be at least 62-years of age.

<u>Background regarding the Housing Authority of the County of Monterey</u>

The Housing Authority of the County of Monterey was established by the Board of Supervisors on March 1941, as a separate Community Development Commission. On March 24, 1941, the Board of Supervisors appointed the first five-person Commission to oversee HACM operations.

Since HACM is a fully separate legal entity from the County, HACM retains authority to appoint its own Executive Director who is responsible for its staffing. Since HACM is a non-qualified PHA, HACM prepares a five-year plan and an annual plan. The most recent plans are attached to this memorandum.

There are approximately 4,100 households in Monterey County benefiting from the HACM's housing voucher program. The HACM, through its subsidiary HACM Housing Development Corporation (HDC), operates approximately 1,077 units of family housing; 292 units of farmworker family housing; 345 units for seniors and other special needs populations; and 56 units of transitional housing. The HACM created the HDC in response to HUD's Rental Assistance Demonstration (RAD) Program. The RAD program was an attempt by HUD to attract private capital to upgrade public housing properties by allowing some market rate units to be included in the development and to all the development to receive housing voucher subsidies with the goal of stabilizing the development finances and improving the quality of housing. Public housing units in the RAD program are technically no longer public housing.

HUD and the public have recently expressed concern regarding HACM's program effectiveness and management efficiency. Considering this input, the County Department of Housing and Community Development has reviewed a few other PHAs to discover what other PHAs are doing to ensure the programs are appropriately operating, as discussed below.

<u>Examples of Other Approaches to PHAs</u>

Los Angeles County – In 2019, the Los Angeles County Board of Supervisors created the Los Angeles County Development Authority by consolidating the Los Angeles County Housing Authority and the Los Angeles County Community Development Commission. The merger was voluntary and formalized the pre-existing nature of the joint operations between the Los Angeles County Community Development Commission and the Los Angeles County Housing Authority that has been occurring since 1982, which included a single Executive Director. Under this model, the Los Angeles County Development Authority is a separate stand-alone agency that manages all aspects of its operations, including maintaining finance and human resource systems separate from Los Angeles County. The Los Angeles County Board of Supervisors also serves as the Board of Commissioners for the Los Angeles County Housing Authority and appoints the Executive Director. The Los Angeles Board of Supervisors has also appointed a Housing Advisory Committee to review and makes recommendations on matters that are presented to the Board of Commissioners for approval, including Section 8 and Public Housing policies and procedures. The Los Angeles County Development Authority manages both the public housing and rental assistance vouchers.

Sonoma County - Sonoma County operates its housing authority through a Community Development Commission (CDC). The Sonoma CDC is governed by the Sonoma County Board of Supervisors, acting as the Commissioners of the CDC. The Community Development Committee (Committee) acts as an advisory group to the Commissioners. The Committee reviews and makes recommendations on policy and funding matters to come before the Commission. which is appointed by the Sonoma County Board of Supervisors. Sonoma County does not have any public housing.

The City of Santa Rosa – The City of Santa Rosa operates the Santa Rosa Housing Authority through the City Department of Housing and Community Services. The governing body is appointed by the City Council. The Executive Director is the Director of the Department of Housing and Community Services. The SRHA primarily consists of the Santa Rosa Housing Trust and Rental Housing Assistance programs.

The City of Napa – The City of Napa operates the Housing Authority as a function of the City's Housing Division. The City Council takes on all the duties of the Board of Commissioners. All the supporting services necessary for the operation of the Housing Authority are provided by other city departments. One key difference between the City of Napa's Housing Authority and other housing authorities is that it only provides rent subsidy vouchers. There is no public housing in the City of Napa.

The County of Napa - The County of Napa through its Housing Authority operates three farmworker housing projects for seasonal and migrant workers. These developments are industry funded.

<u>Next Steps</u>

Considering HCD's review of the sample jurisdictions and concerns received, there are several options that the Board of Supervisors may wish to consider regarding the HACM operations. Before any option is furthered, County staff would strongly encourage a comprehensive audit by a qualified third party of HACM operations, financial records and assets. In advance of an audit and risk assessment, below is a list of options for consideration in the short-term.

1. No action, wait to see how HACM responds to the October 8, 2021 HUD letter and whether the Civil Grand Jury investigates HACM per the County's November 2, 2021 request letter;
2. Fund a consultant to assist HACM in guiding its operations;
3. Appoint commissioners, as the terms expire, that are agents of change;
4. Request that the HACM Commissioners establish a hiring committee that includes the Board of Supervisors participation in the hiring of the Executive Director and other key staff to ensure proper leadership is in place within HACM.

Upon conclusion of the comprehensive audit and risk assessment with assuming a greater role in HACM, the Board may elect to take the following longer-term options. Before the Board initiates these longer-term options, we would recommend consultation with County Counsel.

1. Appoint the Board of Supervisors by Resolution to act as the HACM Commission plus two residents (Tenant Commissioners), and appoint members to serve on the various subcommittees, as needed.

To achieve this aforementioned long-term option, and since HACM is already established by Resolution, the Board by resolution would need to rescind its previous action establishing the membership structure and adopt the new Commission structure.

2. Integrate the all or portions of the existing HACM programming within HCD. Those portions not integrated may be assumed by a local City like the City of Salinas.

These last two options would have budgetary impacts on the Housing and Community Development Department and indirectly on other County Departments. If the Board desires to integrate the existing HACM programing within HCD, additional staffing and equipment would be necessary to support the program. The current housing section within HCD currently includes

5 FTE positions, which would need to be increased substantially to accommodate the increased workload. HACM currently has over 20 staff, it is unknown if there are additional vacant positions. HCD would likely need similar or greater number of additional staff to absorb and carry out the HACM functions.

Attachments

1. Board of Supervisors Meeting Minutes of March 17, 2021
2. HACM PHA Annual Plan FY 2021
3. HACM 5-Year Agency Plan
4. U.S. Department of Housing and Urban Development Letter dated October 8, 2021
5. County of Monterey Letter to Grand Jury dated November 2, 2021

page 21, Records of Monterey County, and running thence westerly along the aforesaid prolongation and the line between Lots 17 and 18, Block 151, to the southwest corner of said Lot 17 thence northerly along the westerly line of Lot 17 to the northwest corner thereof; thence easterly along the northerly line of Lot 17 and the easterly production thereof to its intersection with the Carmel Sanitary District boundary in Dolores Street; thence southerly along said Sanitary District boundary to the point of beginning.

Passed and adopted by the following vote:

Ayes: Supervisors Hutchings, McHarry, Redding, Dudley and Jacobsen.

Noes: None.

Absent: None.

Deeds Accepted)
)
..............)

The following deeds, executed to the County of Monterey, by the following named persons, are hereby accepted, to-wit:

Anna Kastl, dated February 11, 1941
Gabrielle Omegna et al, dated March 7, 1941
Mrs. Gertrude Foster, dated March 6, 1941

Resolution Declaring the Need)
for a Housing Authority in the)
County of Monterey, California)

BE IT RESOLVED, By the Board of Supervisors of the County of Monterey, State of California:

That the Board of Supervisors of the County of Monterey, California, hereby determines, finds and declares, in pursuance of the "Housing Authorities Law" of the State of California, that:

1. Insanitary and unsafe inhabited dwelling accommodations exist in the County of Monterey, California;

2. There is a shortage of safe and sanitary dwelling accommodations in the County of Monterey, California, available to persons of low income at rentals they can afford;

3. There is need for a Housing Authority in the County of Monterey, California.

Streets and Highways)
)
Plan Adopted........)

WHEREAS, The Planning Commission of the County of Monterey, State of California, did, by a resolution thereof adopted at a regular meeting thereof held on the 24th day of February, 1941, after following the procedure specified by law, adopt a Streets and Highway Plan as a part of the Master Plan of the County of Monterey, State of California, and did recommend that the Board of Supervisors of said County adopt said proposed Streets and Highways Plan, which plan is shown on a map entitled as follows, "Master Plan of Streets and Highways being a part of the Master Plan of the County of Monterey, State of California," and

WHEREAS, Said Board of Supervisors is of the opinion that the welfare of Monterey County demands the adoption of said plan to serve as a guide and general plan for the physiof said district," approved March 22, 1941, to-wit:

From Monterey:	C. L. Frost
From Pacific Grove:	Chas. S. Olmsted
From Carmel-by-the-Sea:	Fred U. McIndoe
From Unincorporated Area:	Henry J. Zaches
At Large:	Shelburn Robison

RESOLVED FURTHER, That the Clerk of this board be, and he is hereby instructed to forward a true copy of this resolution duly certified to each of said appointees together with a notice of the time and place when and where said board of directors will meet as provided in said act.

Passed and adopted by the following vote, to-wit:

Ayes: Supervisors Hutchings, McHarry, Redding, Dudley and Jacobsen.

Noes: None.

Absent: None.

Commissioners of Monterey County)
)
Housing Authority Appointed.....)

On motion of Supervisor Hutchings, seconded by Supervisor McHarry, the following resolution is adopted by the vote hereinafter recorded:

WHEREAS, the Board of Supervisors of the County of Monterey, at a regular meeting held on the 17th day of March, 1941, adopted a resolution declaring the need for a Housing Authority in the County of Monterey, California,

BE IT THEREFORE RESOLVED, That this Board does hereby appoint the five persons hereinafter named to serve as Commissioners of the Monterey County Housing Authority, for the number of years appearing after their names, respectively, from and after this date, to-wit:

Howard Veit	Four Years
Paul L. Pioda	Four Years
Jas. V. Pettitt	Three Years
W. H. Hargis	Two Years
H. A. Prince	One Year

BE IT FURTHER RESOLVED, That Howard Veit be, and he hereby is designated as Chairman of said Housing Authority.

The vote on said resolution is recorded as follows, to-wit:

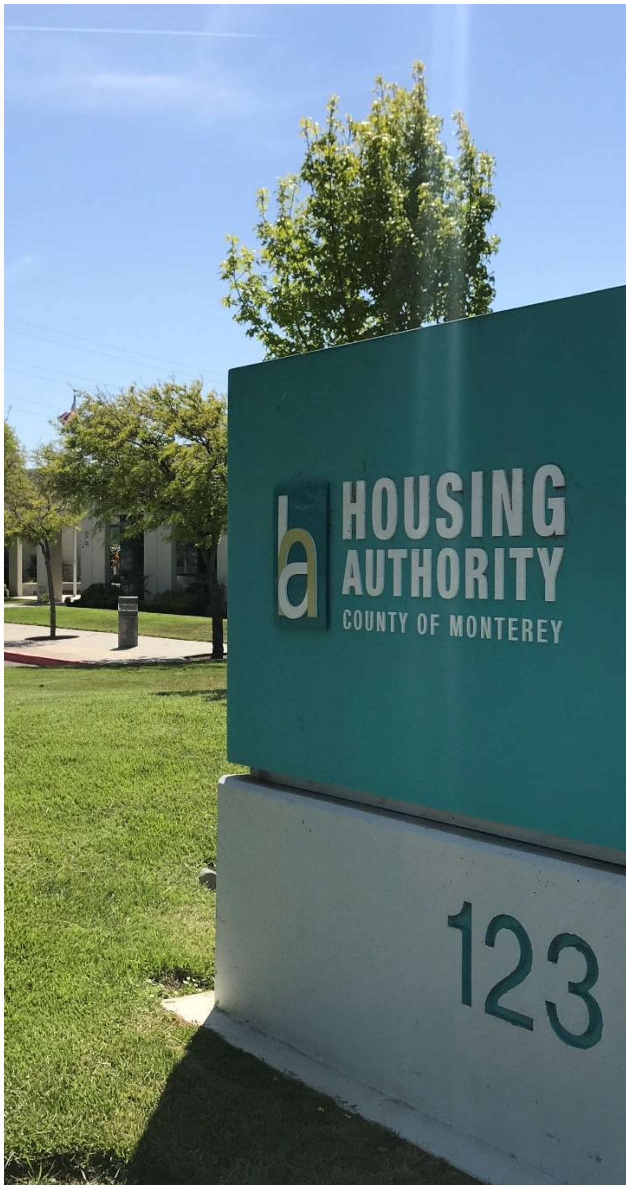
Ayes: Supervisors Hutchings, McHarry, Redding, Dudley and Jacobsen.

Noes: None.

Absent: None.

Consent to Extension of)
)
Mortgage...............)

WHEREAS, the County of Monterey is the holder of a lien on that certain property covered by that certain mortgage to the Home Owners' Loan Corporation recorded on the 19th day of June, 1934, in Book 402, page 80 of O. R. in the office of the County Recorder of

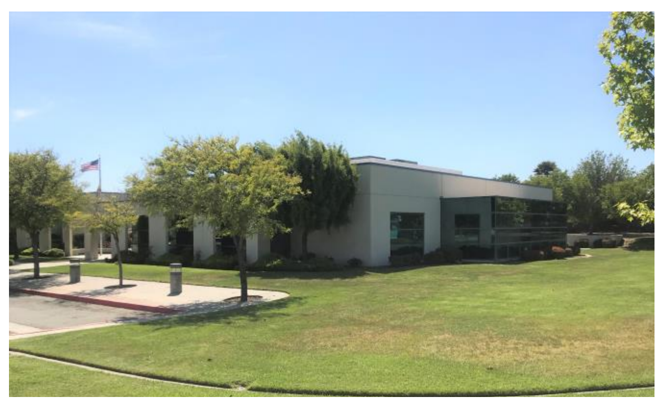


Housing Authority of the County of Monterey

PHA Annual Plan FY July 2021

Board of Commissioners:
Kevin Healey-Board Chair
Kathleen Ballesteros-Board Vice Chair
Paul Miller-Commissioner
Viviana Gama-Commissioner
Francine Goodwin-Commissioner
Hans Buder-Commissioner
Jon Wizard-Commissioner

Executive Director:
Jose G. Gomez



Streamlined Annual PHA Plan ***(HCV Only 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-HCV is to be completed annually by **HCV-Only PHAs**. PHAs that meet the definition of a Standard PHA, Troubled PHA, High Performer PHA, Small PHA, or Qualified PHA do not need to submit this form. Where applicable, separate Annual PHA Plan forms are available for each of these types of PHAs.

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 if administering both programs, or PHAS if only administering public housing.
(2) ***Small PHA*** - A PHA that is not designated as PHAS or SEMAP troubled, or at risk of being designated as troubled, 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 exceed 550, and that was designated as a standard performer in the most recent PHAS and 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	**PHA Name**: _Housing Authority of the County of Monterey_ **PHA Code**: CA033 **PHA Plan for Fiscal Year Beginning**: (MM/YYYY): _07/2021 **PHA Inventory** (Based on Annual Contributions Contract (ACC) units at time of FY beginning, above) **Number of Housing Choice Vouchers (HCVs)** 4,534 **PHA Plan Submission Type:** ☒ Annual Submission ☐ Revised Annual Submission A**vailability 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 the main office or central office of the PHA. PHAs are strongly encouraged to post complete PHA Plans on their official website. ***The Annual Plan and supporting documents and the agency Administrative Plan are available for review at Housing Authority of the County of Monterey, 123 Rico St, Salinas, CA 93907, on the agency website at www.hamonterey.org. The agency has also posted a public notice with information on how to request a copy of the plan by mail.***

☐ **PHA Consortia**: (Check box if submitting a joint Plan and complete table below)

Participating PHAs	PHA Code	Program(s) in the Consortia	Program(s) not in the Consortia	No. of Units in Each Program
Lead HA:				

B. **Annual Plan.**

B.1

Revision of PHA Plan Elements.

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

Y N
☐ ☒ Housing Needs and Strategy for Addressing Housing Needs.
☐ ☒ De-concentration and other Policies that Govern Eligibility, Selection, and Admissions.
☐ ☒ Financial Resources.
☐ ☒ Rent Determination.
☐ ☒ Operation and Management.
☐ ☒ Informal Review and Hearing Procedures.
☐ ☒ Homeownership Programs.
☐ ☒ Self Sufficiency Programs and Treatment of Income Changes Resulting from Welfare

Program Requirements.
☐ ☒ Substantial Deviation.
☐ ☒ Significant Amendment/Modification.

(b) If the PHA answered yes for any element, describe the revisions for each element(s):

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 ☒ ☐ Project Based Vouchers. (b) If this activity is planned for the current Fiscal Year, describe the activities. Provide the projected number of project-based units and general locations and describe how project-basing would be consistent with the PHA Plan. The Housing Authority of the County of Monterey (HACM) continues to expand its use of Project-Based Vouchers (PBV) in supporting the development and expansion of affordable housing in Monterey County. For the year 2021-2022, the agency projects there to be 296 new project-based vouchers granted to rehabilitative and new housing developments. The agency will be working with new housing developers by providing project-based vouchers to the following projects: Catalyst A-E, Casanova Plaza Apartments, Parkside Manor, CHISPA East Garrison Apartments, Greenfield Commons I, Greenfield Commons II, Magnolia Place Senior Apartments II, and Project Homekey. The projects are focused on preserving and rehabilitating affordable housing and in the development of new housing construction. The agency received an additional: 65 HUD-VASH vouchers, 7 additional Mainstream vouchers, and applied for the Foster Youth to Independence (FYI) Initiative program. If awarded participation in the FYI, the agency will receive an additional 75 vouchers to support the foster youth in the community. Additionally, the agency's waitlist was opened in October of 2020 and accepted over 3,200 applications. The agency has implemented innovative measures to continue providing opportunities to Housing Choice Voucher clients in present changing circumstances such as: conducting drive in and remote briefings, assisting applicants and landlords with alternative safety measures, such as virtual inspections, processing applications with minimal in person contact and making referrals to community agencies that offer additional support to families seeking safe, affordable housing. The agency updated its Administrative Plan to include admission of working low-income families with a median household income of up to 80%, expanding affordable housing opportunities to working families in Monterey County.

B.3	**Most Recent Fiscal Year Audit.** (a)Were there any findings in the most recent FY Audit? Y N N/A ☐ ☒ ☐ (b) If yes, please describe:
B.4	**Civil Rights Certification** Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulations,* must be submitted by the PHA as an electronic attachment to the PHA Plan.
B.5	**Certification by State or Local Officials.** 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.

B.6 **Progress Report.**

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

The Housing Authority of the County of Monterey has made the following progress in meeting the goals of the 5-Year plan:

The agency opened its HCV waiting list in October of 2020 and received approximately 3,200 applications. Increasing opportunity for families and individuals in need of affordable housing.

The agency is a high performer in the Housing Choice Voucher (HCV) program.
The HACM has a current SEMAP score of 98%. The agency continues to strive for a score of 100%.

The agency hosts group briefings and individual meetings with applicants to inform them of all opportunities available in the HCV program, including agency partnerships that offer supportive services, information on current housing rentals, supportive services for the disabled, veterans and homeless individuals and families to expand opportunities to all participants of its programs.

The agency holds special informative meetings for new landlords and offers a rental incentive to motivate them to participate in the HCV program to increase safe, decent, and affordable housing opportunities to its HCV participants.

Project-based vouchers have been made available to new housing developments to increase the supply of affordable housing in the county and opportunities to participants.

The agency has 200 homeless set-aside housing choice vouchers and continues to work with local service providers to assist homeless families and individuals with affordable housing and supportive services.

The agency continues to explore competitive funding opportunities as they become available, such as the Foster Youth to Independence (FYI) Initiative. The agency has applied for 75 vouchers to provide affordable housing opportunities for the foster youth in Monterey County.

The agency will continue to strengthen opportunities for HCV families promoting self-sufficiency by encouraging participation in the Family Self-Sufficiency Program (FSS).

The agency remains committed to meeting reasonable accommodation or modification requests in order to provide equal opportunity to disabled families or individuals.

The agency works with families, informing them about portability and relocation to neighborhoods of opportunity.

B.7	**Resident Advisory Board (RAB) Comments.** (a) Did the RAB(s) provide comments to the PHA Plan? Y N ☐ ☒ (a) 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.

Instructions for Preparation of Form HUD-50075-HCV

Annual PHA Plan for HCV Only PHAs

A. PHA Information. All PHAs must complete this section. (24 CFR §903.23(4)(e))

A.1 Include the full **PHA Name**, **PHA Code**, **PHA Type**, **PHA Fiscal Year Beginning** (MM/YYYY), **Number of Housing Choice Vouchers (HCVs), PHA Plan Submission Type**, and the **Availability of Information**, specific location(s) of all information relevant to the public hearing and proposed PHA Plan.

PHA Consortia: Check box if submitting a Joint PHA Plan and complete the table. (24 CFR §943.128(a))

B. Annual Plan. All PHAs must complete this section. (24 CFR §903.11(c)(3))

B.1 Revision of PHA Plan Elements. PHAs must:

Identify specifically which plan elements listed below that have been revised by the PHA. To specify which elements have been revised, mark the "yes" box. If an element has not been revised, mark "no."

☐ **Housing Needs and Strategy for Addressing Housing Needs.** Provide a statement addressing the housing needs of low-income, very low-income families who reside in the PHA's jurisdiction and other families who are on the Section 8 tenant-based waiting list. The statement must identify the housing needs of (i) families with incomes below 30 percent of area median income (extremely low-income), (ii) elderly families and families with disabilities, and (iii) households of various races and ethnic groups residing in the jurisdiction or on the waiting list based on information provided by the applicable Consolidated Plan, information provided by HUD, and other generally available data. The identification of housing needs must address issues of affordability, supply, quality, accessibility, size of units, and location. (24 CFR §903.7(a)(1) and 24 CFR §903.7(a)(2)(i)). Provide a description of the PHA's strategy for addressing the housing needs of families in the jurisdiction and on the waiting list in the upcoming year. 24 CFR §903.7(a)(2)(ii)

☐ **De-concentration and Other Policies that Govern Eligibility, Selection, and Admissions.** A statement of the PHA's policies that govern resident or tenant eligibility, selection and admission including admission preferences for HCV. (24 CFR §903.7(b))

☐ **Financial Resources.** A statement of financial resources, including a listing by general categories, of the PHA's anticipated resources, such as PHA HCV funding and other anticipated Federal resources available to the PHA, as well as tenant rents and other income available to support tenant-based assistance. The statement also should include the non-Federal sources of funds supporting each Federal program, and state the planned use for the resources. (24 CFR §903.7(c))

☐ **Rent Determination.** A statement of the policies of the PHA governing rental contributions of families receiving tenant-based assistance, discretionary minimum tenant rents , and payment standard policies. (24 CFR §903.7(d))

☐ **Operation and Management.** A statement that includes a description of PHA management organization, and a listing of the programs administered by the PHA. (24 CFR §903.7(e)(3)(4)).

☐ **Informal Review and Hearing Procedures.** A description of the informal hearing and review procedures that the PHA makes available to its applicants. (24 CFR §903.7(f))

☐ **Homeownership Programs**. A statement describing any homeownership programs (including project number and unit count) administered by the agency under section 8y of the 1937 Act, or for which the PHA has applied or will apply for approval. (24 CFR §903.7(k))

☐ **Self Sufficiency Programs and Treatment of Income Changes Resulting from Welfare Program Requirements.** A description of any PHA programs relating to services and amenities coordinated, promoted, or provided by the PHA for assisted families, including those resulting from the PHA's partnership with other entities, for the enhancement of the economic and social self-sufficiency of assisted families, including programs provided or offered as a result of the PHA's partnerships with other entities, and activities under section 3 of the Housing and Community Development Act of 1968 and under requirements for the Family Self-Sufficiency Program and others. Include the program's size (including required and actual size of the FSS program) and means of allocating assistance to households. (24 CFR §903.7(l)(i)) Describe how the PHA will comply with the requirements of section 12(c) and (d) of the 1937 Act that relate to treatment of income changes resulting from welfare program requirements. (24 CFR §903.7(l)(iii)).

☐ **Substantial Deviation.** PHA must provide its criteria for determining a "substantial deviation" to its 5-Year Plan. (24 CFR §903.7(r)(2)(i))

☐ **Significant Amendment/Modification**. PHA must provide its criteria for determining a "Significant Amendment or Modification" to its 5-Year and Annual Plan. Should the PHA fail to define 'significant amendment/modification', HUD will consider the following to be 'significant amendments or modifications': a) changes to rent or admissions policies or organization of the waiting list; or b) any change with regard to homeownership programs. See guidance on HUD's website at: Notice PIH 1999-51. (24 CFR §903.7(r)(2)(ii))

If any boxes are marked "yes", describe the revision(s) to those element(s) in the space provided.

B.2 New Activity. If the PHA intends to undertake new activity using Housing Choice Vouchers (HCVs) for new Project-Based Vouchers (PBVs) in the current Fiscal Year, mark "yes" for this element, and describe the activities to be undertaken in the space provided. If the PHA does not plan to undertake this activity, mark "no." (24 CFR §983.57(b)(1) and Section 8(13)(C) of the United States Housing Act of 1937.

☐ **Project-Based Vouchers (PBV).** Describe any plans to use HCVs for new project-based vouchers. If using PBVs, provide the projected number of project-based units and general locations, and describe how project-basing would be consistent with the PHA Plan.

B.3 Most Recent Fiscal Year Audit. If the results of the most recent fiscal year audit for the PHA included any findings, mark "yes" and describe those findings in the space provided. (24 CFR §903.11(c)(3), 24 CFR §903.7(p))

B.4 Civil Rights Certification. Form HUD-50077, *PHA Certifications of Compliance with the PHA Plans and Related Regulation*, must be submitted by the PHA as an electronic attachment to the PHA Plan. This includes all certifications relating to Civil Rights and related regulations. A PHA will be considered in compliance with the AFFH Certification if: it can document that it examines its programs and proposed programs to identify any impediments to fair housing choice within those programs; addresses those impediments in a reasonable fashion in view of the resources available; works with the local jurisdiction to implement any of the jurisdiction's initiatives to affirmatively further fair housing; and assures that the annual plan is consistent with any applicable Consolidated Plan for its jurisdiction. (24 CFR §903.7(o))

B.5 Certification by State or Local Officials. Form HUD-50077-SL, *Certification by State or Local Officials of PHA Plans Consistency with the Consolidated Plan*, including the manner in which the applicable plan contents are consistent with the Consolidated Plans, must be submitted by the PHA as an electronic attachment to the PHA Plan. (24 CFR §903.15)

B.6 Progress Report. For all Annual Plans following submission of the first Annual Plan, a PHA must include a brief statement of the PHA's progress in meeting the mission and goals described in the 5-Year PHA Plan. (24 CFR §903.11(c)(3), 24 CFR §903.7(r)(1))

B.7 Resident Advisory Board (RAB) comments. If the RAB provided comments to the annual plan, mark "yes," submit the comments as an attachment to the Plan and describe the analysis of the comments and the PHA's decision made on these recommendations. (24 CFR §903.13(c), 24 CFR §903.19)

This information collection is authorized by Section 511 of the Quality Housing and Work Responsibility Act, which added a new section 5A to the U.S. Housing Act of 1937, as amended, which introduced the Annual PHA Plan. The Annual PHA Plan provides 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 for serving the needs of low- income, very low-income, and extremely low- income families.

Public reporting burden for this information collection is estimated to average 4.5 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number.

Privacy Act Notice. The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself.

5-Year Agency Plan
Fiscal Year Beginning July 2020

Housing Authority of the County of Monterey

HOUSING AUTHORITY
COUNTY OF MONTEREY

Housing Authority

of the

County of Monterey

5-Year Agency Plan Beginning Fiscal Year July 2020

Board of Commissioners:
Kevin Healy-Board Chair
Kathleen Ballesteros-Board Vice Chair
Paul Miller-Commissioner
Francine Goodwin-Commissioner
Hans Buder-Commissioner
Jon Wizard-Commissioner

Executive Director:
Jose G. Gomez

Senior Staff:
Maria Madera-Director of Housing Programs
Jose Acosta-Director of Housing Management
Darlene Sturgeon-Director of Finance

Mission Statement:

To provide, administer and encourage quality affordable housing and related services to eligible residents of Monterey County.

Table of Contents

A.	PHA Information.
A.1	PHA Name: HOUSING AUTHORITY OF THE COUNTY OF MONTEREY

PHA Plan for Fiscal Year Beginning: JULY 2020

PHA Plan Submission Type: ☒ 5-Year Plan Submission ☐ Revised 5-Year Plan Submission

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 on 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 websites. PHAs are also encouraged to provide each resident council a copy of their PHA Plans.

☐ PHA Consortia: (Check box if submitting a Joint PHA Plan and complete table below)

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:					

B.	5-Year Plan. Required for <u>all</u> PHAs completing this form.
B.1	Mission. State the PHA's mission for serving the needs of low- income, very low- income, and extremely low- income families in the PHA's jurisdiction for the next five years. *Mission Statement:* To provide, administer and encourage quality affordable housing and related Services to eligible residents of Monterey County. The Housing Authority of the County of Monterey (HACM) is committed to providing affordable housing to residents of Monterey County. The HACM is committed to collaborating with residents to promote healthy communities in our cities and communities. The HACM is also committed to help families prosper by promoting safe and affordable housing. Our mission is to promote self-sufficiency to our families living in our communities by providing them with the tools necessary to achieve higher education and fiscal responsibility in a healthy affordable living environment.

B.2	Goals and Objectives. Identify the PHA's quantifiable goals and objectives that will enable the PHA to serve the needs of low- income, very low- income, and extremely low- income families for the next five years. The HACM's goals and objectives are the following: Apply for new Housing Choice Vouchers that HUD will promote in the following five years such as Mainstream, VASH, any homeownership programs as capacity and funding allows, develop partnerships with service providers that promote self-sufficiency of families and individuals and expand homeownership opportunities. The HACM continues its committed to maintain a SEMAP score of 100%. The HACM is committed to conducting regular voucher briefings and outreach efforts to landlords to increase availability of units. The HACM maintains the three regional county payment standards to further opportunity to its participants and actively incorporate Project Based Vouchers in multi -family projects to meet the housing needs of the county when funding is available. The HACM will continue to cultivate partnerships with service providers that increase services to the elderly and disabled and that support independence such as Interim, Central Coast Center for Independent Living and the Alliance on Aging and is committed to seeking new partnerships as they are available. The HACM is continuously implementing affirmative measures that ensure access to affordable housing opportunities to all protected classes and participants regardless of race, color, religion, national origin, sex, familial status and disability ensuring equal opportunity and fair housing for all participants and applicants.

B.3	Progress Report. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan. Since the previous 5-Year Plan the HACM has successfully transferred all Public Housing properties to a RAD platform. The agency is now exclusively a Housing Choice Voucher agency. The HACM maintains a SEMAP score of 96%. The HACM partners with various community service providers. The HACM continues to successfully secure a partnership with the Homeless Coalition by working to promote stable housing for the homeless community by securing 100 set aside vouchers. The HACM successfully maintained the Homeless Set-Aside Housing Choice Vouchers in partnership with the following community agencies: Community Human Services Franciscan Workers Housing Resource Center Interim Inc. Sun Street Centers Veterans Transition Center Access Support Network Central Coast Center for Independent Living VASH-Palo Alto VAMC The HACM has continued to successfully administer its Family Self-Sufficiency Program with 93 current participating families, 74 of those families currently have an Escrow Account, 3 families are in the Home Ownership Program and 300 families have completed the program successfully.

B.4	Violence Against Women Act (VAWA) Goals. Provide a statement of the PHA's goals, activities objectives, policies, or programs that will enable the PHA to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking. The HACM adheres to fair housing practices and provides fair housing referral services to clients and residents as appropriate and notifies all applicants and participants of their rights and protection under the Violence Against Women Act at the time of application, intake appointments and annual recertifications. Applicants and participants are informed of the protection offered under the VAWA and informed of the confidentiality requirements. Additionally, the National Domestic Violence Hotline telephone number is provided to any individual inquiring about VAWA and contact information for local victim and advocacy groups or services providers. Applicants are not denied admission or participation on the basis that the applicant is, or has been a victim of domestic violence, dating violence, sexual assault or stalking. The HACM provides a waiting list preference for Victims of Domestic Violence in the HCV program. HACM posts information regarding VAWA in its office and website. Information is also made readily available to anyone who requests the following: A copy of the notice of occupancy rights under VAWA for HCV program applicants who have been or are victims of domestic violence, dating violence, sexual assault or stalking (Form HUD-5380, Exhibit 16-1). A copy of form HUD-5382, Certification of Domestic Violence, Dating Violence, Sexual Assault or Stalking and Alternate Documentation. A copy of the PHA's Emergency Transfer Plan. A copy of HUD's Emergency Transfer Request for Certain Victim's of Domestic Violence, Dating Violence, Sexual Assault or Stalking (Form HUD-3583, Exhibit 16-4).

B.5	Significant Amendment or Modification. Provide a statement on the criteria used for determining a significant amendment or modification to the 5-Year Plan. The Housing Authority of the County of Monterey considers the following criteria for determining "Significant Amendments or Modification" to the 5-Year Plan: *Significant Amendment or Modification:* The HACM interprets significant amendments or modification as changes in policies and plans that directly alter and change the HACM's mission, goals and objectives. The HACM considers significant amendments and modifications as changes that have an impact on the people and communities the HACM serves, such as changes in admission requirements, changes in procedures for rent calculations that have a financial impact on its participants and changes in the organization and selection of the waiting list. Significant amendments or modifications are also interpreted as changes or alterations in collaborative partnerships, programs and organizations that are an integral part of the agency's goals, activities and objectives described in the housing authority's policies and plans and that are working in partnership to meet the housing authority's mission.
B.6	Resident Advisory Board (RAB) Comments. (a) Did the RAB(s) provide comments to the 5-Year PHA Plan? Y N ☐ ☒ (b) If yes, comments must be submitted by the PHA as an attachment to the 5-Year PHA Plan. PHAs must also include a narrative describing their analysis of the RAB recommendations and the decisions made on these recommendations.

B.7	Certification by State or Local Officials. <u>Form HUD 50077-SL</u>, *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. All required Certifications by State and Local Officials will be submitted as attachments to the plan.

Instructions for Preparation of Form HUD-50075-5Y
5-Year PHA Plan for All PHAs

A. PHA Information 24 CFR §903.23(4)(e)

A.1 Include the full PHA Name, PHA Code, , PHA Fiscal Year Beginning (MM/YYYY), PHA Plan Submission Type, and the Availability of Information, specific location(s) of all information relevant to the hearing and proposed PHA Plan.

PHA Consortia: Check box if submitting a Joint PHA Plan and complete the table.

B. 5-Year Plan.

B.1 Mission. State the PHA's mission for serving the needs of low- income, very low- income, and extremely low- income families in the PHA's jurisdiction for the next five years. (24 CFR §903.6(a)(1))

B.2 Goals and Objectives. Identify the PHA's quantifiable goals and objectives that will enable the PHA to serve the needs of low income, very low- income, and extremely low- income families for the next five years. (24 CFR §903.6(b)(1)) For Qualified PHAs only, if at any time a PHA proposes to take units offline for modernization, then that action requires a significant amendment to the PHA's 5-Year Plan.

B.3 Progress Report. Include a report on the progress the PHA has made in meeting the goals and objectives described in the previous 5-Year Plan. (24 CFR §903.6(b)(2))

B.4 Violence Against Women Act (VAWA) Goals. Provide a statement of the PHA's goals, activities objectives, policies, or programs that will enable the PHA to serve the needs of child and adult victims of domestic violence, dating violence, sexual assault, or stalking. (24 CFR §903.6(a)(3))

B.5 Significant Amendment or Modification. Provide a statement on the criteria used for determining a significant amendment or modification to the 5-Year Plan.

B.6 Resident Advisory Board (RAB) comments.

(a) Did the public or RAB provide comments?

(b) If yes, submit comments as an attachment to the Plan and describe the analysis of the comments and the PHA's decision made on these recommendations. (24 CFR §903.17(a), 24 CFR §903.19)

This information collection is authorized by Section 511 of the Quality Housing and Work Responsibility Act, which added a new section 5A to the U.S. Housing Act of 1937, as amended, which introduced the 5-Year PHA Plan. The 5-Year PHA Plan provides the PHA's mission, goals and objectives for serving the needs of low- income, very low- income, and extremely low income families and the progress made in meeting the goals and objectives described in the previous 5-Year Plan. Public reporting burden for this information collection is estimated to average .76 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and respondents are not required to complete this form, unless it displays a currently valid OMB Control Number. Privacy Act Notice. The United States Department of Housing and Urban Development is authorized to solicit the information requested in this form by virtue of Title 12, U.S. Code, Section 1701 et seq., and regulations promulgated thereunder at Title 12, Code of Federal Regulations. Responses to the collection of information are required to obtain a benefit or to retain a benefit. The information requested does not lend itself to confidentiality

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
Office of Community Planning and Development
San Francisco Regional Office – Region IX
One Sansome Street, Suite 1200
San Francisco, CA 94104-4430

October 8, 2021

Mr. Jose Gomez
Executive Director
Housing Authority of the County of Monterey
123 Rico Street
Salinas, CA 93907

Dear Mr. Gomez:

SUBJECT: Remote Monitoring of Continuum of Care Programs
Grant Numbers: CA0207L9T061912 and CA0207L9T061811
Federal Fiscal Year 2021 Monitoring
June 1-22, 2021

From Tuesday, June 1 to Tuesday, June 22, 2021, the U.S. Department of Housing and Urban Development (HUD or the Department) Office of Community Planning and Development (CPD) conducted a remote monitoring of the Continuum of Care program, to assess the Housing Authority of the County of Monterey's (HACM) performance and compliance with applicable Federal requirements. Program performance was assessed through a review of operations, file documentation, and interviews. The purpose of this letter is to transmit HUD's monitoring report, which provides the details of the review. HUD's review of these areas of program performance may result in the identification of Findings, Concerns, or exemplary practices.

A Finding is a deficiency in program performance based on a violation of a statutory or regulatory requirement. A Concern is a deficiency in program performance that is not based on a statutory or regulatory requirement but is brought to the recipient's attention. Corrective Actions to address the noncompliance are identified for all Findings. Recommended Corrective Actions are identified for Concerns. An exemplary practice is a noteworthy practice or activity being carried out by the recipient and may possibly be duplicated by another recipient.

The enclosed report contains eight Findings and one Concern. Within 30 days from the date of this letter, the HACM has the opportunity to provide additional information demonstrating that it has met the requirements of each Finding. If the HACM fails to respond within 30 days, or if the response is unsatisfactory to HUD, HACM must undertake corrective actions. Similarly, if the HACM disagrees with any of HUD's determinations or conclusions in this monitoring letter, please address these issues in writing to this Department within 30 days of the date of this letter. The written communication should either provide supporting information to demonstrate that the requirement has been met, or explain the reasons why the HACM disagrees, along with supporting evidence. Written responses should be sent to the address listed below.

HUD would like to thank the HACM staff for their professionalism and cooperation during the review. HACM's HUD monitoring representative, Mariela L. Lopez, Community Planning and Development Representative, is available to discuss the results of this monitoring report or provide technical assistance, if requested, and can be reached at Mariela.L.Lopez@hud.gov. All communication should be addressed to the Department of Housing and Urban Development, San Francisco Regional Office, Community Planning and Development Division, 1 Sansome Street, San Francisco, CA 94104, but provided electronically to SFCPDmail@hud.gov.

Sincerely,

ALICE WALKUP

Digitally signed by: ALICE WALKUP
DN: CN = ALICE WALKUP C = US O = U. S. Government OU = Department of Housing and Urban Development, Office of Community Planning and Development
Date: 2021.10.08 17:45:10 -07'00'

For Kimberly Y. Nash
Director
Community Planning and Development Division

cc:
Jose Acosta, Director of Housing Management
Darlene Sturgeon, Finance Director
Socorro Vasquez, Property Management Supervisor

U.S. Department of Housing & Urban Development
San Francisco Regional Office

Monitoring Report

Continuum of Care Program

Housing Authority of the County of Monterey

Grants:
CA0207L9T061912
CA0207L9T061811

Monitoring Dates: June 1, 2021 – June 22, 2021

OVERVIEW

Monitoring is the principal means by which HUD ensures program effectiveness and management efficiency, and that programs are carried out in compliance with applicable laws and regulations. It assists recipients in improving their performance, developing or increasing capacity, and augmenting their management and technical skills. Also, it provides a method for staying abreast of CPD-administered programs and technical areas within the communities that HUD programs serve. Monitoring assesses the quality of performance over time and promptly resolves the findings of audits and other reviews. In determining which recipients will be monitored, the Department uses a risk-based approach to rate recipients, programs, and functions, including assessing the Department's exposure to fraud, waste, and mismanagement. This process not only assists the Department in determining which recipients to monitor, but also identifies which programs and functions will be reviewed.

Specifics relating to this review are as follows:

Dates Monitoring Conducted:	June 1 – June 22, 2021
Type of Monitoring:	Remote
HUD Reviewers:	Mariela L. Lopez, Community Planning and Development Representative Curt Klaus, Senior Community Planning and Development Representative
Recipient Staff and Other Participants:	Jose Gomez, Executive Director Jose Acosta, Director of Housing Management Darlene Sturgeon, Finance Director Socorro Vasquez, Property Management Supervisor
Entrance Conference:	
Date:	June 1, 2021
Representatives:	Mariela L. Lopez, CPD Representative Curt Klaus, Senior CPD Representative Alice Walkup, CPD Program Manager Jose Acosta, Director of Housing Management Darlene Sturgeon, Finance Director Socorro Vasquez, Property Management Supervisor
Exit Conference:	
Date:	June 22, 2021
Representatives:	Mariela L. Lopez, CPD Representative Curt Klaus, Senior CPD Representative Alice Walkup, CPD Program Manager

Jose Gomez, Executive Director
Jose Acosta, Director of Housing Management
Darlene Sturgeon, Finance Director
Socorro Vasquez, Property Management Supervisor

SUMMARY OF RESULTS AND CONCLUSIONS

The following areas were reviewed:

- Overall Grant Management, including:
  - Subrecipient Grant Management,
  - CoC Match Requirements;
- Transitional Housing Program Requirements and Homeless and At-Risk Determination/ Recordkeeping; and
- Lead-Based Paint.

Although Financial Management, Cost Allowability, and Procurement were areas identified for review in the monitoring notification letter, the following exhibits were not completed for the review due to limited time:

- Exhibit 34-1: Guide for Review of Financial Management and Audits
- Exhibit 34-2: Guide for Review of Cost Allowability
- Exhibit 34-3: Guide for Review of Procurement.

Exhibits from the *Community Planning and Development Monitoring Handbook 6509.2* were used to guide the review. These exhibits can be found at the following address:
https://www.hud.gov/program_offices/administration/hudclips/handbooks/cpd/6509.2.

SCOPE OF REVIEW

The recipient oversees a transitional housing program, Pueblo del Mar, funded with Continuum of Care (CoC) funds. HACM utilizes one subrecipient, Sun Street Centers (SSC), to carry out this project. The funds are used for supportive services, operating, and administrative costs. This section of the report summarizes the areas and program requirements reviewed.

Area Reviewed and Results

Overall Grant Management

A review of the HACM's programmatic policies and procedures, annual performance reports, project applications, financial management procedures, and single audits was conducted to determine the HACM's compliance with overall grant management requirements. The following exhibits were used for this review:

- Exhibit 29-3: Guide for Review of CoC Recipient Overall Grant Management,

- Exhibit 29-4: Guide for Review of CoC Subrecipient Grant Management, and
- Exhibit 29-11: Guide for Review of CoC Match Requirements.

Based on this monitoring review, it was determined that the HACM is not in compliance with all applicable requirements. As a result, there are seven findings and one concern in this area, which are listed below.

Finding 2021-01 **The recipient did not have adequate standard operating procedures to ensure that CoC program funds were used in accordance with the provisions of the McKinney-Vento Act.**

Condition: The HUD monitors reviewed the HACM's only operating policies and procedures, documents titled *Applicant Review Process* and *Financial Management Policy*. During conversations with program staff and a review of those documents, HUD monitors found that the HACM did not have a set of comprehensive policies and procedures specific to the requirements of Title 24 within the Code of Federal Regulations (CFR) Section 578. The documents centered on the requirements of other non-CoC programs the HACM operates.

Criteria: Per 24 CFR Section 578.103(a),

> *In general. The recipient and its subrecipients must establish and maintain standard operating procedures for ensuring that Continuum of Care program funds are used in accordance with the requirements of this part and must establish and maintain sufficient records to enable HUD to determine whether the recipient and its subrecipients are meeting the requirements of this part, including:*

The requirement then goes on to list items from this part that should be included in the standard operating procedures, including: (1) Continuum of care records, (2) Unified funding agency Records, (3) Homeless status, (4) Chronically homeless status, (5) At risk of homelessness status, (6) Moves for victims of domestic violence, dating violence, sexual assault, and stalking, (7) Annual income, (8) Program participant records, (9) Housing standards, (10) Services provided, (11) Match, (12) Conflicts of interest, (13) Homeless participation, (14) Faith-based activities, (15) Affirmatively furthering fair housing, (16) Other federal requirements, (17) Subrecipients and contractors, and (18) Other records specified by HUD.

Per 24 CFR Section 578.103(c)(1),

> *Period of record retention. All records pertaining to Continuum of Care funds must be retained for the greater of 5 years or the period specified below. Copies made by microfilming, photocopying, or similar methods may be substituted for the original records.*
>
> *(1) Documentation of each program participant's qualification as a family or individual at risk of homelessness or as a homeless family or individual and other program participant records must be retained for 5 years after the expenditure of all funds from the grant under which the program participant was served;*

Cause: The HACM was missing a standalone set of policies and procedures for operating its CoC project consistent with the requirements at 24 CFR Section 578.103(a). From the list above, items

1, 2, 4, and 5 do not apply to the HACM's CoC Program, however the other standards do apply (items 3, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, and 18). Of the standards that applied, the HACM did not meet them all, but staff noted that they refer to the "Applicant Review Process" and the "Financial Management Policy" for certain items of administration in its CoC grant, such as program participant records and services provided. However, these topic-based guides do not specifically cite the requirements of Section 578.

Effect: Without written procedures for the implementation of the requirements under 24 CFR Section 578, the HACM lacks effective control and staff awareness to ensure it is implementing these requirements sufficiently. This deficiency resulted in multiple additional findings, which are detailed in this monitoring report, including: untimely draws, Annual Performance Reports (APR), and single audit submissions; lack of subrecipient management and monitoring, termination of assistance, and CoC-specific conflict of interest policies and procedures; and inadequate documentation of homeless status and other key documents in client files.

Corrective Action: To address this deficiency, the recipient is requested to take the following actions within 30 days of the date of this letter:

A. Create and submit a written operating guide for its CoC projects that provides procedures for all the relevant items listed in 24 CFR Section 578.103(a).

B. Create a training program for financial management and program staff on the operating guide developed in item A. Provide evidence to HUD of the program and the date(s) of delivery on each of the finding topics to the HACM staff.

<u>Finding 2021-02</u> **The recipient did not consistently draw CoC funds on a quarterly basis.**

Condition: The HUD monitor reviewed a sample of the HACM's CoC grant awards in the Line of Credit Control System (LOCCS) and found that for the two awards reviewed, CA0207L9T061912 and CA0207L9T061811, the HACM completed one lump sum draw and several draws with missed quarters, respectively. For both grants, the draws were not completed quarterly.

Criteria: Per 24 CFR Section 578.85(c)(3),

> *(c) Distribution. A recipient that receives funds through this part must:*
>
> *(3) Draw down funds at least once per quarter of the program year, after eligible activities commence.*

Cause: According to conversations with program staff, the HACM is very understaffed, with four to six fewer employees than when at full capacity, and responsibilities for program and financial management has shifted to other staff that may not have complete knowledge of program procedures. Initially, the HACM had difficulty in gaining access to LOCCS, which delayed the staff from making quarterly draws.

Effect: The HACM was untimely in the drawing and distribution of grant funds for the two grants identified in the condition of this finding. Cash flow problems can arise when a recipient does not complete draws in a timely manner after funds have been spent. The recipient may have floated general or other funds to pay for the CoC expenses, limiting their use for other projects.

Corrective Action: To address this deficiency, the recipient is requested to take the following actions within 30 days of the date of this letter:

A. Develop financial management policies and procedures that specifically address the quarterly draw requirement, in the HACM's operating guide developed for Finding 2021-01.

B. Create and implement a training for financial management and the procedure completed in item A. This subject can be part of the training program for the operating guide developed for Finding 2021-01.

Finding 2021-03 **The recipient failed to submit the Annual Performance Report within 90 days of the end of the performance period and did not provide details as to why established goals were not met.**

Condition: The HUD monitor reviewed the APR for the projects covered during the monitoring and found that for one project, CA0207L9T061811, the annual performance report was due on September 28, 2020, but the HACM submitted the report on December 7, 2020.

Criteria: Per 2 CFR Section 200.329(c)(1) and 2(ii),

> *(1) The non-Federal entity must submit performance reports at the interval required by the Federal awarding agency or pass-through entity to best inform improvements in program outcomes and productivity. Intervals must be no less frequent than annually nor more frequent than quarterly except in unusual circumstances, for example where more frequent reporting is necessary for the effective monitoring of the Federal award or could significantly affect program outcomes. Reports submitted annually by the non-Federal entity and/or pass-through entity must be due no later than 90 calendar days after the reporting period.*
>
> *(2) As appropriate in accordance with above mentioned performance reporting, these reports will contain, for each Federal award, brief information on the following unless other data elements are approved by OMB in the agency information collection request:*
> *(ii)The reasons why established goals were not met, if appropriate.*

Cause: According to conversations with program staff and a review of the HACM's policy and procedures, the HACM did not have a written process for completing and submitting the APR and relied on the institutional knowledge of program staff to complete this requirement. Program staff also noted that the delay may have been a result of shifting staff responsibility and priority to responding to the impacts of the COVID-19.

Effect: The lack of a written process including a timeline for collection of data and completing the report resulted in program staff submitting a delayed APR for the CA0207L9T061811 and therefore being out of compliance with the requirement at 2 CFR Section 200.329(c)(1). Annual performance reporting is critical to making decisions about the efficacy of a project and delayed submissions can impact this decision-making process.

Corrective Action: To address this deficiency, the recipient is requested to take the following actions within 30 days of the date of this letter:

A. Provide evidence that the recipient has submitted its most recent annual performance report within 90 calendar days of the end of the performance period. The APR for the grant CA0207L9T061912 was due on September 28, 2021, and the 2020 APR is due September 28, 2022.

B. Create and implement training for completing Annual Performance Reports. The APR data collection and report submission process should be included in the overall training program for the operating guide developed for Finding 2021-01.

Finding 2021-04 **The recipient failed to submit an annual single audit as required.**

Condition: The HACM has not submitted their single audit for the years ending in 2019 and 2020 to the Federal Audit Clearinghouse. Given the amount of funding the HACM receives for the Housing Choice Voucher and other public housing programs, the HACM exceeds the $750,000 threshold for submission of a single audit. The HUD monitors did not receive the requested single audits during the monitoring review.

Criteria: Per 2 CFR Section 200.501,

> Audit requirements. *(a) Audit required. A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single or program-specific audit conducted for that year in accordance with the provisions of this part.*
>
> *(b) Single audit. A non-Federal entity that expends $750,000 or more during the non-Federal entity's fiscal year in Federal awards must have a single audit conducted in accordance with § 200.514 except when it elects to have a program-specific audit conducted in accordance with paragraph (c) of this section.*

Per 2 CFR Section 200.512,

> *(a) General. (1) The audit must be completed and the data collection form described in paragraph (b) of this section and reporting package described in paragraph (c) of this section must be submitted within the earlier of 30 calendar days after receipt of the auditor's report(s), or nine months after the end of the audit period. If the due date falls on a Saturday, Sunday, or Federal holiday, the reporting package is due the next business day.*

Cause: There is no apparent cause or reason for not having completed and submitted the single audits. It appears that the most recent submissions to the Federal Audit Clearinghouse are for the single audits for years ending on June 30 in 2017 and 2018. Those audits were submitted on November 20, 2019, and October 2, 2020, respectively.

Effect: A single audit is a key tool in ensuring organizations are functioning properly and there is not mismanagement of program funds. Without a written process including a timeline for collection of data and completion of the required corrective action from the auditors, it can diminish the efficacy of the program. Annual auditing is critical to making decisions about the project or program and delayed submissions can impact this decision-making process.

Corrective Action: To address this deficiency, the recipient is requested to take the following actions within 30 days of the date of this letter:

A. Provide evidence that the recipient has submitted the single audits for years ending in 2019 and 2020.

B. Create a written procedure that ensures single audits are completed and submitted annually.

C. Create training addressing the recipient tasks associated with timely submission of a single audit. This material should be included in the overall training program for the operating guide developed for Finding 2021-01.

Finding 2021-05 **The HACM does not provide adequate oversight to and management of its subrecipient.**

Condition: Based on a review of documentation provided and information gathered through interviews with HACM and SSC staff, HACM does not review and approve the work carried out by SSC staff. Specifically, HACM does not:

- Review and approve homeless eligibility documentation completed by staff at Sun Street;
- Review and concur on program participant supportive service plans;
- Ensure that goals and supportive service plans are reviewed and adjusted periodically as needed;
- Evaluate whether program participants have viable plans to be able to obtain permanent housing at the end of the program;
- Have a subrecipient agreement that identifies deliverables and includes all contract obligations;
- Have policies and procedures that include subrecipient monitoring; and
- Ensure compliance with single audit requirements, if applicable.

Criteria: Per 24 CFR Section 578.103,

> *Recordkeeping requirements.*
> *(a) In general. The recipient and its subrecipients must establish and maintain standard operating procedures for ensuring that Continuum of Care program funds are used in accordance with the requirements of this part and must establish and maintain sufficient records to enable HUD to determine whether the recipient and its subrecipients are meeting the requirements of this part*

Per 24 CFR Section 578.23(c)(11),

> *(c) Required agreements. Recipients will be required to sign a grant agreement in which the recipient agrees:*
>
> *(11) Enter into subrecipient agreements requiring subrecipients to operate the project(s) in*

accordance with the provisions of this Act and all requirements under [24 CFR part 578]

Per 2 CFR 200.332(a),

> *Ensure that every subaward is clearly identified to the subrecipient as a subaward and includes the following information at the time of the subaward and if any of these data elements change, include the changes in subsequent subaward modification. When some of this information is not available, the pass-through entity must provide the best information available to describe the Federal award and subaward. Required information includes:*
> *(1) Federal award identification.*
> *(i) Subrecipient name (which must match the name associated with its unique entity identifier);*
> *(ii) Subrecipient's unique entity identifier;*
> *(iii) Federal Award Identification Number (FAIN);*
> *(iv) Federal Award Date (see the definition of Federal award date in § 200.1 of this part) of award to the recipient by the Federal agency;*
> *(v) Subaward Period of Performance Start and End Date;*
> *(vi) Subaward Budget Period Start and End Date;*
> *(vii) Amount of Federal Funds Obligated by this action by the pass-through entity to the subrecipient;*
> *(viii) Total Amount of Federal Funds Obligated to the subrecipient by the pass-through entity including the current financial obligation;*
> *(ix) Total Amount of the Federal Award committed to the subrecipient by the pass-through entity;*
> *(x) Federal award project description, as required to be responsive to the Federal Funding Accountability and Transparency Act (FFATA);*
> *(xi) Name of Federal awarding agency, pass-through entity, and contact information for awarding official of the Pass-through entity;*
> *(xii) Assistance Listings number and Title; the pass-through entity must identify the dollar amount made available under each Federal award and the Assistance Listings Number at time of disbursement;*
> *(xiii) Identification of whether the award is R&D; and*
> *(xiv) Indirect cost rate for the Federal award (including if the de minimis rate is charged) per § 200.414*

Per 24 CFR Section 578.99(e),

> *(e) Applicability of uniform administrative requirements, cost principles, and audit requirements for Federal awards. The requirements of 2 CFR part 200 apply to recipients and subrecipients, except where inconsistent with the provisions of the McKinney-Vento Act or this part.*

Per 2 CFR Section 200.332,

> *All pass-through entities must:(f) Verify that every subrecipient is audited as required by [Subpart F of this part] when it is expected that the subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in [§ 200.501].*

Per 2 CFR Section 200.501,

> ***Audit requirements.*** *(f) Subrecipients and contractors. An auditee may simultaneously be a recipient, a subrecipient, and a contractor. Federal awards expended as a recipient or a subrecipient are subject to audit under this part. The payments received for goods or services provided as a contractor are not Federal awards. Section § 200.331 sets forth the considerations in determining whether payments constitute a Federal award or a payment for goods or services provided as a contractor.*

Cause: According to conversations with program staff and a review of the HACM's contract with SSC, it was determined that the HACM did not have a written process for managing subrecipient activities or a standard for client record management.

Effect: The lack of a written process on how to manage and monitor subrecipients as well as the lack of recordkeeping requirements the recipient and subrecipient must follow, could lead to entry of clients into the program when they are not eligible. It could also lead to mismanagement of client files and mismanagement of the grant by the subrecipient because of the lack of monitoring and regular performance reporting. Without all the required elements in the subaward agreement, the subrecipient does not have full information about the grant and the recipient cannot ensure subrecipient compliance with all program requirements.

Corrective Action: To address this deficiency, the recipient is requested to take the following actions within 30 days of the date of this letter:

A. Incorporate subrecipient management, including the recordkeeping and audit requirements, into the HACM's operating guide developed for Finding 2021-01.

B. Update the subaward contract to include references to 24 CFR Section 578 and the McKinney-Vento Act, as well as other information as described in the Criteria section.

C. Address the topics in part A and B of this corrective action in the overall training program for the operating guide developed for Finding 2021-01.

Finding 2021-06 **The recipient does not have evidence of a formal termination of assistance and appeals process.**

Condition: The HUD monitor reviewed the HACM's policies and procedures and found it did not have formal termination of assistance processes as defined 24 CFR Section 578.91. A recipient is required to have written procedures for termination of assistance as part of its recordkeeping requirements at 24 CFR Section 578.103.

Criteria: Per 24 CFR Section 578.91,

> *(a) Termination of assistance. The recipient or subrecipient may terminate assistance to a program participant who violates program requirements or conditions of occupancy. Termination under this section does not bar the recipient or subrecipient from providing further assistance at a later date to the same individual or family.*

(b) Due process. In terminating assistance to a program participant, the recipient or subrecipient must provide a formal process that recognizes the rights of individuals receiving assistance under the due process of law. This process, at a minimum, must consist of:

(1) Providing the program participant with a written copy of the program rules and the termination process before the participant begins to receive assistance;

(2) Written notice to the program participant containing a clear statement of the reasons for termination;

(3) A review of the decision, in which the program participant is given the opportunity to present written or oral objections before a person other than the person (or a subordinate of that person) who made or approved the termination decision; and

(4) Prompt written notice of the final decision to the program participant.

(c) Hard-to-house populations. Recipients and sub recipients that are providing permanent supportive housing for hard-to-house populations of homeless persons must exercise judgment and examine all extenuating circumstances in determining when violations are serious enough to warrant termination so that a program participant's assistance is terminated only in the most severe cases.

Cause: The HACM uses its *Applicant Review Process* and *Financial Management Procedures* as guides for its CoC projects. However, as described previously, the topic-based documents do not cite the requirements of Section 578, including the termination of assistance procedures at 24 CFR Section 578.91(b). The reliance on documents that do not contain all the requirements of the CoC program contributed to the HACM not having a termination policy that meets the requirements.

Effect: The lack of a written policy and procedures for termination of assistance for the CoC projects exposes the HACM to potential deficiencies or inconsistencies in the way it handles termination of assistance activities.

Corrective Action: To address this deficiency, the recipient is requested to take the following actions within 30 days of the date of this letter:

A. Include the formal termination of assistance policy and procedure, consistent with the requirements at 24 CFR Section 578.91(b), in HACM's operating guide developed for Finding 2021-01.

B. Create a training for staff addressing the written procedure for termination of assistance and overall client interaction to be included in the training program for the operating guide developed for Finding 2021-01.

C. Deliver a training on the termination of assistance policy for the current participants in Pueblo del Mar.

D. Ensure that potential and new project participants are informed of Pueblo del Mar's termination of assistance policy.

Finding 2021-07 **The recipient did not have a conflict-of-interest policy that was consistent with the requirements of 24 CFR Section 578.**

Condition: The HUD monitor reviewed the conflict-of-interest policy submitted by the HACM and found that it was missing certain information required, including policies on procurement consistent with 2 CFR Section 200.318, organizational conflict of interest, and an exception process.

Criteria: Per 24 CFR Section 578.95, a recipient must have written procedures to ensure CoC program funds are used in accordance with the requirements of Section 578, which includes procedures for reviewing and ruling on conflicts of interest.

Cause: The HACM provided a conflict-of-interest policy and code of conduct that were dated in 2007, but these items were not consistent with the CoC requirements. As described in Finding 2021-01, the HACM did not have a set of policies and procedures specific to its CoC projects which should have also addressed conflict of interest.

Effect: Without conflict-of-interest policies and procedures, there could be real or perceived organizational or personal conflicts of interest that could cause the HACM to be unable to render impartial assistance or could unduly benefit one or more employees or program participants.

Corrective Action: To address this deficiency, the recipient is requested to take the following actions within 30 days of the date of this letter:

A. Develop and implement policies and procedures that comply with the requirements at 24 CFR Section 578.95.

B. Create and implement a training for HACM and SSC staff on conflict of interest. This training can be part of the overall training program and included in the operating guide developed for Finding 2021-01.

Concern 2021-01 **It is unclear whether subrecipient invoices reflect actual time spent carrying out grant-funded activities.**

Condition: The HACM provided invoices from SSC for Pueblo del Mar billing as well as payments made by the HACM. The amounts charged appear to be the same amount each month.

Cause: Since the costs charged to the HACM were the same every month, the costs charged may have been arrived at by taking the total amount budgeted to go to the subrecipient, rather than tracking and charging based on the actual supportive services and operating costs as they are incurred.

Effect: The subrecipient may charge the grant for more or less than the costs that were actually incurred for their activities.

Recommended Action: To address this concern, the recipient is recommended to take the following actions:

A. Review the invoices and supporting documentation provided by SSC to see if the documentation reflects actual costs incurred. If it does, ensure that documentation is maintained with the invoices and payments.

B. If the costs charged are not based on costs incurred, develop a clear policy and procedures for both the recipient and subrecipient to ensure that only costs incurred are charged to the grant. Incorporate this information into the operating guide developed for Finding 2021-01.

C. Create and implement a training on the subject described in item B for HACM and SSC staff so that both can follow the documentation procedures in the operating guide developed for Finding 2021-01.

Transitional Housing Program Requirements and At-Risk Determination/Recordkeeping

A review of the HACM's programmatic policies and procedures and a sample of five client files from the transitional housing project monitored (CA0207L9T061912 and CA0207L9T061811) was conducted to determine the HACM's compliance with homelessness determination and recordkeeping. The following exhibits were examined as part of the monitoring review:

- Exhibit 29-1: Guide for Review of Homeless and At-Risk Determination/Recordkeeping Requirements, and
- Exhibit 29-9: Guide for Review of CoC Transitional Housing Program Requirements.

In addition, interviews were conducted with personnel from the HACM and SSC regarding the procedures used to implement and manage transitional housing projects.

Based on this monitoring review, it was determined that the HACM is not in compliance with all applicable requirements. As a result, there is one finding in this area, which is listed below.

Finding 2021-08 **The recipient does not have adequate documentation on eligibility to verify the program participants' homeless status.**

Condition: The HUD monitor sampled five client files for the HACM's transitional housing projects, CA0207L9T061912 and CA0207L9T061811, and found that all files reviewed were missing sufficient documentation to determine homeless status. Specifically, the Department found the following deficiencies regarding homeless status:

- No information or documentation for where the client stayed the night before entering Pueblo del Mar;
- Client forms contain information, such as physical addresses, indicating people may have been housed at the time of program entry which would make an applicant ineligible for this program;
- The "Homeless Status Prefererances" (sic) form has several housing/homeless options that do not meet HUD's definition of homelessness. These include:
  - Overcrowding;
  - Substandard housing;
  - Exiting another Transitional Housing program and has not found housing; and

    - No identified length of stay nor documentation of homeless status the night before entering the institution for individuals institutionalized prior to entering Pueblo del Mar.
- When a stay has been more than 90 days in an institution, potential project participants are still being referred to the Pueblo de Mar program though there is no documentation of staff efforts to find alternative housing for the individual.

In addition to the deficiencies with eligibility documentation for homeless status, the Department also noted that there were criteria requirements which are not only not part of CoC requirements, but prevent many homeless families from qualifying for the transitional housing program at Pueblo del Mar. The following are requirements for applicants as spelled out in the *Applicant Review Process*:

- have an income from employment or public assistance to qualify for the program;
- have to pay a $500 deposit fee;
- be recipients of CalWORKs and Medi-Cal and have an established welfare to work program OR be employed full-time; and
- arrange for childcare when attending screening interview.

Criteria: Per 24 CFR Section 578.103(a)(3), which references Section 576.500,

> *Recordkeeping and reporting requirements.(a) In general. The recipient must have policies and procedures to ensure the requirements of this part are met, including those required by 2 CFR part 200. The policies and procedures must be established in writing and implemented by the recipient and its subrecipients to ensure that ESG funds are used in accordance with the requirements. In addition, sufficient records must be established and maintained to enable the recipient and HUD to determine whether ESG requirements are being met.*
>
> *(b) Homeless status. The recipient must maintain and follow written intake procedures to ensure compliance with the homeless definition in § 576.2. The procedures must require documentation at intake of the evidence relied upon to establish and verify homeless status. The procedures must establish the order of priority for obtaining evidence as third-party documentation first, intake worker observations second, and certification from the person seeking assistance third. However, lack of third-party documentation must not prevent an individual or family from being immediately admitted to emergency shelter, receiving street outreach services, or being immediately admitted to shelter or receiving services provided by a victim service provider.*
>
> *(1) If the individual or family qualifies as homeless under paragraph (1)(i) or (ii) of the homeless definition in § 576.2, acceptable evidence includes a written observation by an outreach worker of the conditions where the individual or family was living, a written referral by another housing or service provider, or a certification by the individual or head of household seeking assistance.*
>
> *(2) If the individual qualifies as homeless under paragraph (1)(iii) of the homeless definition in § 576.2, because he or she resided in an emergency shelter or place not meant for human*

habitation and is exiting an institution where he or she resided for 90 days or less, acceptable evidence includes the evidence described in paragraph (b)(1) of this section and one of the following:

(i) Discharge paperwork or a written or oral referral from a social worker, case manager, or other appropriate official of the institution, stating the beginning and end dates of the time residing in the institution. All oral statements must be recorded by the intake worker; or

(ii) Where the evidence in paragraph (b)(2)(i) of this section is not obtainable, a written record of the intake worker's due diligence in attempting to obtain the evidence described in paragraph (b)(2)(i) and a certification by the individual seeking assistance that states he or she is exiting or has just exited an institution where he or she resided for 90 days or less...

Cause: The HACM relied on SSC, its subrecipient, for eligibility documentation and recordkeeping of program service requirements. As a result, the HACM did not scrutinize records or eligibility documentation completed by SSC. Also, the HACM did not have its own set of written procedures specific to meet the requirements of 24 CFR Section 578.103(a) as described in Finding 2021-01, and therefore lacked any internal procedure for reviewing and documenting homeless status. The homeless status determination is completed by the subrecipient, SSC, and there is no documentation to explain how the determination was made. During interviews, program staff stated that the HACM was lacking the staff who normally complete these types of tasks but are actively trying to hire new staff. Even though the task is assigned to the subrecipient, it is still necessary for transitional housing project staff to be aware of recordkeeping requirements and ensure that client's qualification for the program is adequately documented in the project file when those clients are referred to the project.

Effect: The Department is unable to confirm that program participants meet HUD's definition of homelessness. The lack of written procedures for recordkeeping puts the project at risk for accepting clients who may not be qualified for the program. In the condition noted above, all five clients accepted did not have adequate evidence of homelessness, which prevents an accurate determination of eligibility for the project. Additionally, the requirements the project has in place as described in the condition of this finding may unnecessarily preclude applicants from participating in the program who are otherwise eligible.

Corrective Action: The HACM is requested to take the following actions within the next 30 days:

A. Review all active client files and attempt to collect adequate documentation that demonstrates each program participant meets HUD's homeless definition. The evidence provided must meet the requirements as described in the Criteria section of this finding.

B. Submit results of item A and notify HUD of any families that were not homeless at the time of admission.

C. Submit a plan to find alternative housing for those families that did not meet the HUD homeless definition.

D. Include a section on recording homeless status in the operating guide developed for Finding

2021-01. This information should include a written procedure to ensure that all clients have the required evidence of homeless status upon entry into the project. This written policy and procedure should be consistent with the recordkeeping requirements of 24 CFR Section 578.103(a)(3) and verify that the evidence collected demonstrates the client meets the homeless definition at 24 CFR Section 578.3.

E. Create a training on homelessness status so HACM and SSC staff can follow the documentation procedures in the operating guide developed for Finding 2021-01.

Lead-Based Paint

The purpose of this review is to ensure compliance with requirements of the HUD/ Environmental Protection Agency Lead-Based Paint Disclosure Rule and HUD's consolidated lead-based paint regulation, known as the Lead Safe Housing Rule. Both Rules implement the Residential Lead-Based Paint Hazard Reduction Act of 1992. The following monitoring exhibit was used to document the review:

- Exhibit 24-2: Guide for Review of Lead-Based Paint Compliance in Properties Receiving Acquisition, Leasing, Support Services, or Operations Assistance.

No findings were identified in this area of review.

MONTEREY COUNTY

THE BOARD OF SUPERVISORS

168 West Alisal Street, 1st Floor
SALINAS, CA 93901
(831) 755-5066, Fax: (831) 755-5888
cttb@co.monterey.ca.us

November 2, 2021

Monterey County Civil Grand Jury
PO Box 414
Salinas, CA 93902

Re: Citizens Compliant regarding the Housing Authority of Monterey County and its Housing Development Corporation

Dear Monterey County Civil Grand Jury,

On November 20, 2019, District 1 Supervisor Alejo, originally filed a citizen's complaint requesting the Housing Authority of Monterey County be investigated due to numerous concerns from community residents and employees. Unfortunately, the Civil Grand Jury did not provide a report despite the concerns raised at that time. On November 2, 2021, the full Board of Supervisors of Monterey County expressed its concern with the operations of the Housing Authority considering more recent complaints of the Housing Authority.

On behalf of the full Monterey County Board of Supervisors, I am writing and restating Supervisor Alejo's original complaint requesting a formal investigation of the Housing Authority of Monterey County and its Housing Development Corporation. With the current housing and homelessness crisis facing Monterey County and the State of California, there are numerous reasons that merit an investigation and assessment of the current effectiveness, organization, fiscal management and leadership of this critical organization that serves the most vulnerable in our communities.

As you may be aware, the Monterey County Board of Supervisors appoints its Board of Commissioners that is supposed to provide oversight, administration, and accountability of the agency. Several community residents raised concerns regarding the lack of staff and mismanagement within the organization. I believe that the Civil Grand Jury could help investigate these conditions and make recommendations for improving the agency and the delivery of services to our residents.

The following are reasons why I am requesting an investigation:

1) The Housing Authority has been without a permanent Executive Director since March 2019. I also understand the Housing Authority does not have a Human Resources Manager. I believe their finance director has been serving in these roles. This may be adversely impacting the leadership and financial accountability of the agency.

2) There has not been an outside financial audit conducted in quite some time, raising concerns about its fiscal condition and whether financials are being reported accurately to their Board of Commissioners as well as State and Federal funders.
3) There are concerns about a split administration within the organization between the Housing Authority and its Housing Development Corporation. The Executive Director has no oversight or management role over the Housing Development Corporation that currently owns all the properties owned by the Housing Authority, which may be adversely impacting the effectiveness and accountability of the agency and increasing costs unnecessarily.
4) There are concerns about the financial transparency of the Housing Development Corporation.
5) There are concerns about whether its Housing Development Corporation followed proper bidding processes for non-profit agencies that receive federal funds when they bid capital construction projects in the last several years.
6) There are numerous complaints about staff morale, internal conflict and professional standards, which may be adversely impacting delivery of services to community residents.
7) There are concerns about whether the Housing Authority includes all information discussed in open monthly meetings, including all the agenda items and staff reports, on their website to be accessible to the public and provide transparency. Most of the meetings in 2019 do not have any reports or fiscal year-end financial for the Housing Authority or the Housing Development Corporation information that was presented. There are no Board documents posted online for 2020 or 2021.

For these reasons, it would be helpful for the public, the Board of Commissioners, and the Board of Supervisors to understand the current status of the Housing Authority and what recommendations can be implemented to better ensure its effectiveness and service delivery for the community.

If you have any questions or need additional information, please contact me at (831) 883-7570 or AskewWR@co.monterey.ca.us. I thank you for your attention to this complaint.

Sincerely,

DocuSigned by:
Wendy Root Askew
785DC799B6194FE...

Wendy Root Askew

Chair, Board of Supervisor

AGENDA

Special joint meeting of the Board of Supervisors of the County of Monterey, the Board of Commissioners of the Housing Authority of the County of Monterey, and the Board of Directors of the Monterey County Housing Authority Development Corporation

DATE: **Tuesday, December 21, 2021**

TIME: **1:30-3:00 p.m.**

PLACE: **Monterey County Housing Authority (Zoom Meeting)**
303 Front Street, Suite 107
Salinas, CA. 93901
Open Session:

Zoom webinar Meeting ID: **Webinar ID: 224 397 747**
Please click the link below to join the webinar:
https://montereycty.zoom.us/j/224397747

Or iPhone one-tap :
US: +16699006833,,224397747# or +13462487799,,224397747#

Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 669 900 6833 or
+1 346 248 7799 or
+1 301 715 8592 or
+1 312 626 6799 or
+1 929 205 6099 or
+1 253 215 8782
Webinar ID: 224 397 747

1. Roll Call: Board of Supervisors; Board of Commissioners; Board of Directors.
2. a. i. Receive a report from Housing and Community Development on the history of the Authority, and how the interests of the County and the Authority intersect; and
   ii Receive a report from the Board of Commissioners and Board of Directors on the status of the Authority, current issues and challenges, and any options or plans to address those issues and challenges.
   b. Board of Supervisors to consider providing recommendations to the Board of Commissioners to address current issues.
   c. Board of Commissioners and Board of Directors to consider taking action in response to Board of Supervisors' recommendations.
   d. Provide appropriate direction to staff.
3. Adjourn.

****
This Agenda was posted on the Bulletin Boards at 303 Front Street, Salinas, CA.
The Board of Directors will next meet on the Regular Board Meeting on
January 24, 2022 at 6 p.m.
****

EMPLOYMENT AGREEMENT BETWEEN MONTEREY COUNTY HOUSING AUTHORITY DEVELOPMENT CORPORATION AND STARLA WARREN FOR PRESIDENT/CEO SERVICES

This Employment Agreement for President/CEO ("Agreement"), is entered into on February 22, 2021 between the Monterey County Housing Authority Development Corporation ("HDC"), and Starla Warren ("President/CEO", "Warren" or "Employee").

RECITALS:

A. WHEREAS, Warren has served in the capacity as President/CEO of HDC since its incorporation date of February 11, 2005; and

B. WHEREAS, the HDC, acting by and through its Board of Directors, wishes to continue to employ the services of Warren as President/CEO of the HDC; and

C. WHEREAS, Warren wishes to continue to provide her services to the HDC as President/CEO; and

D. WHEREAS, the HDC and Warren desire to provide for certain procedures, benefits, and requirements regarding the employment of Warren by HDC.

NOW, THEREFORE, the HDC and Warren agree as follows:

AGREEMENT:

1. <u>Employment Start Date/Term</u>. The HDC hereby employs Warren as President/CEO, and Warren hereby accepts the appointment and continued employment as President/CEO for a term of two (2) years commencing January 1, 2021 and expiring on December 31, 2022. HDC shall endeavor to advise Warren six (6) months or more prior to the expiration of this Agreement of an intent to extend the Agreement, enter into a new Agreement, or to allow this Agreement to lapse at termination.

2. **<u>Duties of President/CEO</u>.** Warren shall be the President/CEO of the HDC and be responsible to the HDC Board of Directors for the proper administration of all affairs of the HDC. The President/CEO shall perform the duties established for the President/CEO by the HDC Board of Directors, or as otherwise provided by law, ordinance or regulation.

(a) To accomplish this, President/CEO shall have the power and shall be required to:

(i) Attend the meetings of the Board of Directors, including subcommittee meetings of the Finance/Development Committee and Ad Hoc Personnel Committee, unless excused by the Chairman of the Board of Directors.

(ii) Direct the work of all departments of the HDC, endeavoring to implement changes that President/CEO believes will result in greater efficiency, economy, or improved public service in the administration of the HDC's affairs or in meeting the HDC's mission.

(iii) Recommend to the Board of Directors from time to time, adoption of policies as President/CEO may deem necessary or expedient for conducting of the HDC's business, the improvement of administrative services, or directing the future growth and development of the HDC.

(iv) Provide for management training and the development of the leadership qualities among department heads and staff as necessary to build the HDC's management team to plan for and meet future challenges.

(b) President/CEO shall devote her full energy, skill, ability and productive time to the performance of President/CEO's duties.

(c) President/CEO shall not engage in any activity which is actually or potentially in conflict with, inimical to, or which interferes with the performance of President/CEO's duties.

3. **Compensation.**

(a) Annual Compensation. HDC shall, effective January 1, 2021, pay the President/CEO an annual salary of $179,766.00 (one hundred seventy-nine thousand and seven hundred sixty-six dollars) payable in installments at the same time as other management employees of the HDC are paid. The President/CEO will be given an annual performance evaluation.

(b) Schedule of Salary Increase. Assuming continued employment and a satisfactory performance evaluation, effective January 1, 2022, the President/CEO's annual salary will increase by 2.5 percent to $184,260 (one hundred eighty-four thousand and two hundred sixty dollars).

(c) Automatic Bonus Share. In addition to annual salary, in accordance with Section III(B) of the HDC Service and Recognition policy attached hereto as Exhibit A, the President/CEO may receive a 30% share of the 1% bonus available to all HDC employees upon construction close. The bonus percentage provided herein would include bonuses received from the Hacienda 1, Hacienda 2, Oak Park 1 and Oak Park 2 projects.

(d) One-time payment. HDC shall make a one-time payment to President/CEO of $33,550.00 (thirty-three thousand and five-hundred and fifty dollars) within 30 days of execution of this Agreement. This payment reflects the amount that would have been paid to President/CEO if a 3.5 percent increase had been applied to President/CEO's salary in the years 2018, 2019, and 2020 during the period of labor negotiations between the parties. This one-time payment shall not create any other obligations on HDC.

4. **Benefit Package**. Subject to the limitations set forth in paragraph 6 herein, President/CEO shall be granted the same package of benefits as is being provided to the HDC's management employees on the commencement date of this Agreement. Any future change to the package of benefits provided to the HDC's management employees shall automatically change the level of benefits for President/CEO.

5. **Vacation; Sick Leave.** Employee shall accrue Annual Leave at the rate of 7.6923 hours per pay period, not to exceed a maximum amount of 450 hours of annual leave accumulation. Employee shall accrue Sick Leave at the rate of 3.08 hours per pay period. Pay out of accumulated sick leave upon death or upon eligibility for retirement shall follow the procedure outlined in the HDC Personnel Policy in effect at that time.

6. **Retirement.** Employee shall participate in the 403(B) retirement plan offered by HDC on the same basis as other HDC employees. Employee will pay the employee

contribution portion and HDC shall make an employer contribution equal to eleven and nine-tenths percent (11.9%) of Employee's annual salary.

7. **Automobile.** The Employee's will be paid an automotive allowance of $500 per month and that will increase commensurate with the cost of living index for the Monterey County area which is adjusted annually.

8. **Termination and Severance Pay.**

(a) Involuntary Termination. The Board of Directors of the HDC may terminate the services of President/CEO on thirty (30) days' notice without cause upon an affirmative vote by a majority of the members of the Board of Directors at a duly constituted meeting. Upon such termination, the HDC shall promptly pay to President/CEO severance pay. Such severance pay shall consist of three (3) months' salary and benefits.

(b) Resignation Upon Request. If Employee resigns at the request of the HDC Board of Directors the President/CEO shall be entitled to severance pay pursuant to section 8 (a) of this Agreement.

(c) Termination for Cause. In the event Employee is terminated for cause by the HDC's Board of Directors during the effective period of this Agreement-, Employee shall not be entitled to any severance pay or other payment, except for wages then due. "Cause", for the purpose of this Agreement, shall mean willful misconduct, malfeasance, dishonesty, or conviction of any felony or misdemeanor involving moral turpitude.

(d) Voluntary Resignation. President/CEO may, at any time during the term hereof, upon ninety (90) days' written notice to the Chairman of the Board of Directors, resign her position as President/CEO. In that event, President/CEO shall not be entitled to severance pay. The HDC may elect to relieve President/CEO of her responsibilities at any time prior to the expiration of the 90-day notice period by paying President/CEO's salary and benefits for the time remaining of the 90-day period.

(f) Circumstances Not Constituting Involuntary -Termination. Involuntary Termination does not include:

(i) Employee's death; or

(ii) Employee's incapacity due to injury or illness.

9. **Indemnification**. The HDC shall defend, hold harmless and indemnify President/CEO against any tort, professional liability claim or demand, or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the performance of President/CEO's duties in accordance with the provisions of California Government Code §§ 825, et seq. The HDC may compromise or settle any such claim or suit and pay the amount of any settlement or judgment rendered therefrom. This covenant shall survive the termination of this Agreement. This provision does not obligate the HDC to pay punitive or exemplary damages which may be awarded, but the HDC may, in its sole discretion, elect to do so to the extent authorized by law.

10. **Other Terms and Conditions of Employment**. The HDC, in consultation with Employee, shall fix any such other terms and conditions of employment as it may determine from time to time, relating to the performance of Employee, provided such terms and conditions are not inconsistent with or in conflict with the provisions of this Agreement , any ordinance or regulation of HUD, or other applicable law.

11. **Notices**. Any notice required or permitted by this Agreement shall be in writing and shall be personally served or shall be sufficiently given when served upon the other party by the United States Postal Service, postage prepaid, and addressed as follows:

To the HDC:

Board Clerk
Monterey County Housing Authority Development Corporation
134 East Rossi Street
Salinas, CA 93901

With a copy to:
Steve Mattas, HDC General Counsel
1999 Harrison Street, 9th Floor
Oakland, CA 94612

To President/CEO:

Ms. Starla Warren

303 Front Street, Suite 107

Salinas, CA. 93901

12. **Entire Agreement**. This Agreement sets forth and establishes the entire understanding between the HDC and Employee relating to the employment of Employee as President/CEO. Any prior discussions or representations by or between the parties are merged into and rendered null and void by this Agreement. The parties, by mutual written agreement, may amend any provision of this Agreement. This Agreement shall be binding on the HDC and Employee, as well as their heirs, assigns, executives, personal representatives and successors-in-interest.

13. **Severability**. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction , the remaining provisions of this Agreement shall continue in full force and effect.

14. **Employee's Independent Review.** Employee acknowledges that she has had the opportunity and has conducted an independent review of the legal effect of this Agreement.

15. **Governing Law and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California. The HDC and Employee agree that any dispute shall be venued in Monterey County, California.

THE PARTIES HAVE CAUSED THIS AGREEMENT TO BE EXECUTED AS OF THE DATE FIRST WRITTEN ABOVE.

Monterey County Housing Authority
Development Corporation ("HDC"):

By:
Chairperson or Vice-Chairperson, Board of Directors

"Employee":

Starla Warren

Exhibit A

Service and Recognition Policy

SERVICE AND RECOGNITION POLICY

I. PURPOSE

To establish guidelines for years of service awards and superior project performance recognition.

II. SCOPE

Applicable to all employees of HDC and administered by the President/CEO.

III. POLICY

A. Years of Service Awards

a. After an employee has reached 5 years of service, the following recognition will be given to each employee having met the criteria:

   i. 5 Years of Service - $100

   ii. 10 Years of Service - $300

   iii. 20 Years of Service $500

b. Any employee employed in excess of ten (10) years and has reached the top of the Board approved Salary Range, will be eligible for a longevity increase of up to 3% upon their employment anniversary date. The employee must be in good standing. This portion of the policy is budget dependent.

c. Any HDC staff, who originated from the Housing Authority of the County of Monterey (HACM), shall have their years of service counted towards HDC service.

B. Project Performance Recognition

a. In addition to receiving a tax credit award, all Development Projects are reliant upon getting the project to Construction Close and meeting the firm Tax Credit Allocation Committee (TCAC) deadlines relative to start of Construction. Should that deadline be missed, all Tax Credits awarded are forfeited and the project does not move forward. This results in significant exposure to the HDC not being able to be reimbursed for all pre-development costs and losing potential developer fee income.

b. There is a significant influx of workload demand during the 180 days from TCAC award and to close of construction loan. During this time, all HDC staff is expected to work as a team to meet the closing date goal. This time provides an environment where all team members are exposed to the entire team's due diligence requirements which is also an opportunity to cross train all positions.

c. No one project proformas are the same and Developer Fee is subject to deferral in order to make the project work as financially viable as possible. Some portion of developer fee will be scheduled to be paid at construction close and will vary from transaction to transaction. This represents an opportunity to incentivize HDC staff to excel in performance relative to closing. As an incentive to HDC staff, 1% of the developer fee paid at close will be subject to allocation among HDC staff, at the President's discretion and subject to an annually budgeted line item, approved by the Board.

Board Approved: August 27, 2012

ECONOMETRICA, INC.

MEMORANDUM

Date: July 29, 2021

To: Jose Gomez, Executive Director and Board of Commissioners, Housing Authority of the County of Monterey

CC: Eric Chambers, GTM, and Sapna Talati and Trevor Auser, Office Public and Indian Housing, San Francisco Field Office, HUD

From: Margaret McGilvray, Econometrica, Inc.

Subject: Observations and Options Pertaining to the Organizational Relationship Between the Housing Authority of the County of Monterey and the Monterey County Housing Authority Development Corporation

1. Background

The Housing Authority of the County of Monterey (HACM) has a complex organizational structure that has evolved as the agency has expanded its bandwidth to provide sustainable long term affordable housing via a series of not-for-profit affiliates. The agency consists of the following entities to include affiliates, not-for-profits, limited liability corporations and limited partnerships:

- Affiliates
  - **Monterey County Housing Authority Development Corporation (HDC)** - created as early as 2005 as not-for-profit 501C 3s in compliance with section 501 (c) (3) of the Internal Revenue Code of 1986 and organized under California Nonprofit Public Benefits Corporation Law. HDC has provided services such as property repositioning, acquisition, development and mixed-finance sourcing for and on behalf of HACM and the City of Soledad Housing Authority.
  - **Tynan Village, Inc** – created in 2005 as not-for-profit 501©(3)[1]
- Not-for-Profits
  - **Monterey County Housing, Inc. (MCHI)** – was created by HACM as a Community Housing Development Organization (CHDO) which enables it to qualify for HOME program funding from HUD. However, according to statute, a CHDO "must act as the owner, developer or sponsor of the project it is developing." Through the HOME program it may undertake: acquisition and/or rehabilitation of rental housing; new construction of rental housing; acquisition and/or rehabilitation of homebuyer properties; new construction of homebuyer properties; and direct financial assistance to purchasers of HOME-assisted housing that has been

[1] Our review did not look at Tynan Village, Inc.

developed with HOME funds by the CHDO. It also includes a separate entity entitled MCHI Affordable Acquisitions, Inc.

There are also other blended component units within HACM, such as Monterey County Housing, Inc., Portola Vista Monterey, LLC; King City Migrant; FLH Community Properties; and Pueblo Del Mar. Some of which are represented in HACM reports others of which are not.

In addition, HACM and HDC are members (whether managing or just member) of 11 Limited Partnerships (LPs) to include: Rippling River Affordable Housing, LP; Benito FLC, LP, Benito Street Affordable Housing, LP, Monterey Affordable Housing LP, Tynan Affordable Housing LP; Fanoe Vista, LP, Haciendas, LP; Haciendas 2, LP; Haciendas 3 LP; Haciendas Senior LP; Oak Park 1, LP; Oak Park 2, LP.

There are also two long standing LLCs for which HACM is the Managing Member - Salinas New Markets Development Company, LLC and Soledad Affordable Housing, LLC.

As a result of converting its public housing to Section 8 through the RAD program, HACM no longer owns or manages a public housing portfolio, although it has not officially exited the public housing program.[2] However, it still has ownership interests in the following RAD properties: Gonzales; E. Salinas; South County and Salinas Family which are all tax credit LLC, as well as Monterey Watsonville which is an LLC but not a tax credit property.

HDC is an affiliate of the authority. The HUD definition of an affiliate is, "an entity, other than an Instrumentality[3], formed by the PHA under state law in which a PHA has a financial or ownership interest or participates in its governance. The PHA as an institution has some measure of control over the assets, operations, or management of the Affiliate, but such control does not rise to the level of control to qualify the entity as an Instrumentality."

HDC's Articles of Incorporation state that the "public purpose (of HDC) is the acquisition, rehabilitation, development and financing of affordable housing for low-, very-low, and moderate-income households… for and on behalf of the Housing Authority of Monterey, the City of Soledad Housing Authority, other political subdivisions of the State of California, and nonprofit corporations." This is also stated as HDC's purpose in the HDC By-Laws. The By-Laws also specify that the HDC Board is that of the HACM Board.

HDC was created to advance the mission of the authority. The formation as an affiliate rather than an instrumentality has allowed the HDC to operate as a quasi-independent third party although it is considered a blended component unit of the authority for financial reporting purposes and

[2] When PHAs remove all of their public housing units and inventory and do not wish to build any additional public housing units HUD requires them to submit HUD-Form 5837 which will ultimately terminate the ACC, otherwise known as PHA close-out.

[3] An Instrumentality is an entity related to the PHA whose assets, operations, and management are legally and effectively controlled by the PHA, through which PHA functions or policies are implemented and that utilizes public housing funds or public housing assets for the purpose of carrying out public housing development functions of the PHA. For HUD's purposes, an Instrumentality assumes the role of the PHA and is the PHA under the public housing requirements for purposes of implementing public housing development activities and programs. Instrumentalities must be authorized to act for and to assume such responsibilities. In addition, an instrumentality must abide by the public housing requirements that would be applicable to the PHA.

therefore is considered, financially, to be "a part of HACM", in the same way that other programs such as the HCV program are "a part of HACM" – at least from a financial perspective. In addition, the RAD properties are "owned" by a General Partner which is made up of HACM and HDC and RAD requirements state that HACM must maintain an interest in the converted public housing properties.[4]

It appears that HDC has transitioned over years to a more independent operation with separate staff, mission, policies and procedures, financial reports, even possibly separate bank accounts. In addition, through a fee-for-service agreement and current operational norms, HACM is in the role of vendor/contractor to HDC while also holding the role of financial reporting entity for both HACM and HDC which puts HACM in a strange dual role of essentially paying themselves.

Based on feedback from Board members, the two organizations no longer share a "common vision", as HDC is pursuing various development activities, beyond the original redevelopment of HACM properties, and some of which may even go beyond the purpose noted in the Articles of Incorporation or By-Laws. In addition, Board members have noted conflict and challenge between the two entities that is problematic operationally and makes governing the two organizations difficult. Based on our review, the operations of the two organizations may not be in compliance with GAAP (per the definitions and actions of blended component units) and/or financially efficient.

Since the HACM Commissioners also serve as the Directors of HDC, they have oversight and governance over both entities. In this regard, they have a statutory responsibility to ensure that both entities adhere to all housing authority and not-for-profit By-Laws, Articles of Incorporations and requirements of the Brown Act in addition to federal procurement laws and other financial requirements. It is important that the Board recognize that the Executive Directors of both entities serve at the pleasure of their respective Boards (which is comprised of all the same individuals) and they have the ability to request full transparency and require collaboration from both Executive Directors. The Board also has the ability and responsibility to the financial solvency of both organizations, but ultimately HACM as the "umbrella" entity.

2. Financial Structure Observations

Housing Authorities are required to be in compliance with the Generally Accepted Accounting Principles (GAAP), which require the PHA to define the "financial reporting entity." HACM is defined as the "financial reporting entity" for Monterey because it is the primary governmental entity for Monterey County for public housing.

According to GAAP, "component units", are organizations that are legally separate from the primary government but must be presented in the financial statements of the reporting entity either as blended with the primary government or discretely presented. Based on our evaluation of HACM and HDC using the Wiley's 2020 GAAP for Governments outlining the requirements listed in GASB Statement No. 61, *The Financial Reporting Entity* and the audits received by HACM, HDC is a blended component unit of HACM. Blended component units are legally

[4] "…The Secretary shall require ownership or control of assisted units by a public or non-profit entity…" • "…[The Secretary] may allow ownership to be transferred to a for-profit entity to facilitate the use of tax credits only if the public housing agency preserves its interest in the property in a manner approved by the Secretary…".

separate entities that are so intertwined with the primary government that they are, in effect, the same as the primary government and are presented as part of the primary government.

Therefore, for financial purposes HDC should be treated financially as another "program" within HACM instead of an entirely separate entity. As such, the staff, equipment, expenses, revenue would be reported in a separate column of the financial reports just as with the HCV program or Rural Development or other HACM grants or programs. Legally, HDC is a separate entity, but from a financial perspective it is tracked and reported as part of HACM's financial portfolio.

3. RAD Ownership Requirements and Observations

HUD initially requires that all RAD units "require ownership or control of assisted units by a public or non-profit entity…" and HUD also "may allow ownership to be transferred to a for-profit entity to facilitate the use of tax credits only if the public housing agency preserves its interest in the property in a manner approved by the Secretary…" RAD properties have three basic ownership structures: ownership by the PHA, transfer of ownership to another public or nonprofit entity, or ownership by a tax credit entity. Typically, the PHA also retains ownership of the site, and leases the property to the tax credit entity, which facilitates retention of PILOT agreements.

HUD requirements further state that, "HUD may allow ownership of the project to be transferred to a tax-credit entity controlled by a for-profit entity to facilitate use of the tax credits, but only if HUD determined that the PHA preserves its interest in the property." One of the methods HUD defines "PHA sufficient interest" is if the PHA or an affiliate under its sole control, is the general partner or managing member.

All except one of HACM's RAD properties are tax credit properties which are owned by a Tax Credit LLP.

- 99.9% of which is owned by Limited Partner Investment Company
- .01% of which is owned by the General Partner – which is a blended unit of HACM and HDC
    - 50.1% of which is the Managing Member – HDC
    - 49.9% of which is the Member - HACM

The role of the general partner (asset manager) usually begins as a sort of "owners-rep" keeping property management accountable. Through Property Management Agreements, HACM has been designated as the property manager. Although technically as the Managing Member HDC is the General Partner or Asset Manager for these properties responsible for property performance – financial and physical. HACM has been assuming this role providing monthly and annually, the cash-flow calculations; occupancy; collections; turnover and turn time; work order/maintenance; expense calculations; and financial calculations. These are not part of the Property Manager role, but have been assumed by HACM.

There is significant role confusion because HACM is acting as both the property manager and being paid through a property management agreement as well as the asset manager seemingly paid for through the fee-for-service agreement. This dual-role creates confusion on the part of staff and more than likely for the Board as well. It may also cause financial confusion as well, since it is unclear what funds may be supporting these different roles and these roles are not clearly delineated in the fee-for-service agreement.

4. Options

Given that financially, according to GAAP principles, HDC is a blended component unit of HACM, **the financials should be, at a minimum reported as one to the HACM Board, auditors and others to which the financial reporting entity (HACM) is required to report.** The Board has options as to how they wish to implement this change at HACM and HDC and whether they want to incorporate any additional changes, such as how they receive financial reports (blended or just presented together but still separately prepared and presented), whether they require easy to track dashboards based on key LIHTC and other indicators across the two organizations, and/or whether they want to see other operational changes within the two organizations.

That said, given the potential financial and legal implications at stake for some of these options we would recommend that the Board seek additional legal, tax and financial advice. As well as set clear objectives in terms of: the status and potential stabilization of both organizations; mission clarification, such as the development of additional affordable housing versus just the maintenance of existing housing in Monterey County, as well as the potential to pursue additional development opportunities outside of the County; planning for LIHTC exits in year 15 of those projects; as well as other potential goals for HACM and HDC.

Given our limited review of HACM and HDC we present the following option actions to the Board of Commissioners. There could be variations on these options as well as perhaps some others, but given our limited time and budget Econometrica provided the most obvious options below.

Options	Considerations
Begin operating HDC as a "program" within HACM to include changing from a fee agreement system to a cost allocation system[5].	• This would require some operational changes initially in terms of reporting to the Board and how finances flow and function. • In the long term it is likely to have significant organizational and staff impacts due to overlapping staff roles and activities. • Also, in the long term it will have policy and other related implications such as consolidation of the personnel policies, payrolls, indirect cost allocations, etc. • Shouldn't impact any of the legal structures or ownership of the existing RAD and other HACM/HDC properties.
Spin HDC off as a wholly separate non-profit.	• This is likely to have an impact on the RAD and Tax Credit legal structures and ownership and should be fully vetted with legal counsel, financial experts and possible tax experts prior to further consideration.

[5] Fee-for-service agreements are like inter-governmental cooperative agreements, such as those between two different governments such as two different PHAs, or the County government versus that of HACM. A cost-allocation system is how PHAs "share costs" within their organization, such as for IT, accounting, HR, etc. across all programs that share those functions.

	• HACM would still have to have some ownership role due to RAD requirements. • Financially it is unlikely that HDC can support itself through developer fees (which is really their only source of funding), particularly due to the lack of regular payment of those fees. That said, other development entities arrange lines of credit or similar arrangements with investors, as a means of addressing fluctuations in fee-based revenue. • This could limit the ability to develop properties, as in many cases HACM will be needed to aid in the holding of notes receivable and possible ground leases due their governmental legal structure. • However, it might also allow HDC more freedom to pursue other development activities, such as market rate or out of state but again legal counsel and financial and tax advisory services may be needed to better identify the pros and cons of such an approach.
Change the Board structure of HDC to be different from that of HACM.	• Would require a change of the By-Laws. • Might not alter the blended component unit status since based on HDC's Articles of Incorporation and its role in the RAD projects it would still need to remain connected to HACM, regardless of the Board composition. • If the Board composition overlap was decreased it might reduce HDC to a discrete component unit such as MCHI, however, there would still be a financial connection to HACM, but also might drive some of the same issues noted above as to the "spin-off" organization. • This option also should be discussed carefully with legal counsel, and perhaps financial advisors.
Begin reporting financially as a HACM "program" but remain under a fee agreement structure.	• The fee agreement structure may allow HDC to feel more autonomous from HACM but at a minimum the fee agreement is old and would need to be updated and significant additional definition added. • The fee agreement structure is more cumbersome than a cost allocation structure and a difficult and unusual arrangement for the component unit and makes the overall HACM financials more difficult to manage and understand. However, it is a viable arrangement between an affiliate and the PHA.
HDC could out-source all of the property management to a private management company and limit their business arrangement with	• This option is available to HDC with the agreement of the Board and it might allow HDC to feel more autonomous from HACM. • However, such a change would have staffing implications for HACM since it would no longer need any property management or maintenance staff. • It would need to be analyzed for cost-effectiveness.

HACM to just a fee-for-service arrangement and member of the General Partnership.	• The current RAD/Tax Credit management agreements would need to be readjusted since they do not appear to operate the same currently in terms of the activities of John Stewart versus that of HACM. • Alternatively, HACM could negotiate a third-party contract where the authority retains a percentage of the rental revenue, so that there are still some funds for the reporting of these properties. • At a minimum HDC should analyze the property management agreements for both HACM and John Stewart and make them the same and then oversee those "contracts" the same as well.

5. Next Steps

Based on the RAD, PBRA and LIHTC and Financial training provided to the Board. Econometrica recommends that HACM review this memo and options and then speak with the HACM legal counsel to determine if there is a course of action the Board and Agency leadership wish to take. Depending upon how the Board decides to proceed HACM may also want to engage additional financial or tax advisory services as well.

The HACM Board may want to create an Ad Hoc Committee to look into these options further to enable them to work more closely with the staff and experts to help come to some decisions.

6. Appendix

Below is a series of questions that arose out of our review of the current HACM and HDC Fee-for-Service Contract. If the HACM Board chooses to retain the Fee-for Service approach to the financial arrangements between HACM and HDC versus the cost-allocation approach recommended, then the Board and the Executive Director may want to consider the questions below. By the fact that Econometrica was unable to answer these questions based on a review of the Fee-for-Service Agreement it is an indication that the agreement lacks a considerable amount of detail that should be included. In addition, any agreement of this nature should be renewed annually or at a minimum bi-annually to assure that the services and costs associated are reflective of actual real-time activity and costs.

1. Are there separate fee agreements (similar to the agreement between HDC & HACM referenced above) with each blended component unit (all corporations, LLCs, & NFP's created by the authority)?

2. HDC was formed in 2005 and the fee agreement approved in 2009. What event prompted the creation of the fee agreement? What was the basis for the chosen staff fee-for-service allocation method and was it a cost allocation approach between 2005 and 2009?

3. Is this allocation methodology in line with current service levels provided in this agreement to HDC and by HDC? Are other agreements that the agency holds with other affiliated entities and/or non-profits, LPs and LLCs, current and accurate regarding services rendered?

4. Does HACM per the agreement with HDC:

a. Oversee & manage cash accounts & financial records for all affiliates or just HDC?

b. Do the services outlined in the 2009 agreement between HACM & HDC by each entity accurately reflect what is currently being provided by each?

b. Does HACM manage all record keeping for HDC?

c. Does HACM perform all management/accounting duties for HDC or are there some that HDC performs for themselves and if so, why?

e. Are HDC development services the only services being provided to HACM (Modernization Dev. Manager, Finance Analyst & Director of Development as indicated in the agreement)?

e. Are the following services the only services still provided to the HDC (IT, HR, Finance & Executive)? If IT has been removed from the services agreement where is the addendum doing so?

f. What is the definition of "executive services" being provided and what was the basis for the allocation?

g. Does HDC currently charge the following items as direct costs to the HDC (vehicles, facility costs, phones, employee benefits (what is included in these benefits) and insurances (what insurance coverage is provided to the HDC)?

h. Has HDC & HACM performed an annual review and analysis to determine that all charges are reasonable and in line with the current multifamily market for your geographic area?

i. If HACM is providing IT, HR, and Finance for HDC, why are there different payroll systems, HR policies and procedures and separate financial reports and accounts?

In 2011 the board approved an amendment to the original 2009 agreement which attempted to further define the services to be provided by each entity regarding the management of the PH Cap Fund and any "special projects".

1. HACM presumably no longer receives any public housing Capital Funds because it is no long in the public housing program and so these funds can no long be cited as a source for payment. Therefore, what are the current sources of funds? Out of what monies is HDC paying for the Fee-for-service?

2. In the amendment, "Special Projects" are defined as those that are non-public housing. HACM (per the amendment) retains the "right to monitor and consult in the management" of any HDC project that is not funded as part of HACM's annual operating subsidy (public housing funding). Does HACM continue to perform the role of monitor and consultant to the HDC? Again, since

there is no public housing remaining at HACM, doesn't this mean that HACM has the right to monitor and consult on all of the HDC projects?

The original agreement between HACM & the HDC and subsequent amendment were created years prior to the creation of the first "RAD" LLC.

1. Are the services rendered by HACM to the RAD converted properties all-inclusive of all management and accounting responsibilities under separate agreements as part of those separate property agreements or as part of this fee-for-service agreement?

2. If all services are being provided to the RAD LLC's by HACM (management & maintenance), is the fee based on a percentage of receivables in keeping with the industry standards in the multifamily industry?

3. Are both agencies in compliance with all terms of these agreements?

4. Are there any other agreements in existence that require the transfer of funds from any affiliate entity other than HDC to HACM for services rendered?

THE HACM-HDC STRUCTURE IS ATYPICAL AND DYSFUNCTIONAL

In an arrangement that is atypical in the housing authority industry, the Executive Director of HACM has no direct control over its affiliated development arm.

- HACM's original intent was to establish HDC as a subordinate entity
  - Housing authorities commonly create affiliated nonprofit development entities
  - In the typical arrangement, the ED of the housing authority is also the ED of the nonprofit development arm, or the head of the development arm reports directly to the ED of the housing authority

- The HACM-HDC structure is atypical, dysfunctional, and detrimental to HACM's mission
  - The HACM Executive Director has no direct control over HDC: no control over HDC's financial decision-making, staffing decisions, or strategic direction (e.g., project selection)
  - HDC effectively functions as an unchecked, independent entity
  - HDC has its own legal counsel that does not consult with HACM, which further strains the relationship between HACM and HDC

IMPLICATIONS: THE STRUCTURE UNDERMINES THE MISSION

The HACM-HDC structure has resulted in a toxic atmosphere and a lack of coordinated operations between the two entities, directly undermining HACM's mission.

- An adversarial and toxic relationship between the HACM and HDC leadership impedes collaboration
  - — HDC projects a negative narrative about HACM to investors, employees, and community partners
- Negative impact on executive recruitment and retention at HACM
  - — The toxic HDC relationship and HACM's lack of direct control of HDC has directly or indirectly led to the early departure of all but one of HACM's Executive Directors over the past decade
  - — HACM's lack of direct control over HDC has made it a challenge to attract high quality Executive Director candidates
- HDC was created, in part, to cross-subsidize HACM, but has instead become a financial drain
  - — HDC was created to provide HACM with additional revenue in the form of developer fees
  - — In practice, revenue-sharing has been unfavorable to HACM, exacerbated by the fact that HACM is performing services for HDC (e.g., accounting) at rates that are substantially below cost

IMPLICATIONS: THE STRUCTURE UNDERMINES THE MISSION (CONT.)

The HACM-HDC structure has resulted in a toxic atmosphere and a lack of coordinated operations between the two entities, directly undermining HACM's mission.

- Most of HACM's former properties are no longer under its control
  - — Almost the entire portfolio (~1,700 units) has been spun off to HDC; HACM has no direct control
- Despite HACM having no direct control over HDC projects, HDC leverages HACM assets as security to finance its deals
- HDC mission drift
  - — HDC has been pursuing potential business opportunities outside Monterey County, even outside of California: e.g., responding to RFPs in Michigan and Alabama
- HDC is attempting to break away from HACM
  - — HDC leadership is seeking to alter the composition of its Board to effectuate a complete decoupling from HACM

A PATH FORWARD

HACM's counsel recommends that HDC be restructured to be brought back under the direct control of HACM, in line with standard industry practice.

- Counsel's recommendation
  - Restructure HDC to operate as an affiliate directly controlled by HACM under the direction of the HACM Executive Director and the governance of the HACM Board of Commissioners
- Specific suggested structural changes
  - Bring the structure of the HACM-HDC relationship back in line with industry norms
  - Appoint the Executive Director of HACM as the Executive Director of HDC
  - Transition HDC employees to direct employees of HACM
  - HDC would have no independent employees of its own
  - Execute an employee-sharing agreement in which HDC would contract with HACM for the use of the development staff's services
  - The restructuring should not impact any of the legal structures or ownership of the existing RAD portfolio and other HDC properties

MONTEREY COUNTY CIVIL GRAND JURY

P.O. Box 414
Salinas, CA 93902
Telephone: (831) 883-7553

Sent via first class mail
November 19, 2021

Jose G. Gomez CEO
Housing Authority of Monterey County
123 Rico St.
Salinas CA 93907

RE: Document Requests

Dear Mr. Gomez:

The 2020/21 Monterey County Civil Grand Jury has been empaneled and, in accordance with its statutorily prescribed mandate, has identified several areas for inquiry or investigation relative to the functioning of county, municipal, and special district government.

At this time, the Grand Jury is requesting specific information as detailed in the accompanying **Attachment**. When responding, please include both hard copy and removable electronic media (**USB drive**) as part of your submittal.

We would like this information no later than December 15, 2021. Please notify us when the material is ready, and we will arrange to collect it directly from your office. We have deliberately chosen this method of transmittal in lieu of other forms of delivery.

Please be advised that Grand Jury proceedings are confidential, and you must not reveal any matters concerning the existence and/or nature of the Grand Jury's investigation. If you need to contact others in order to gather and transmit the requested documents, you must not reveal the nature of the Grand Jury's inquiry or investigation, and only request the documents without elaboration. If you have difficulty assembling or collecting documents because of this confidentiality requirement, please contact the Grand Jury for guidance or direction.

If you have any questions, please contact me at twiley@montereycograndjury.com.

We thank you in advance for your cooperation and assistance in this matter.

Sincerely,

Thomas A. Wiley, Foreperson
2021/22 Monterey County Civil Grand Jury

Attachment

A complaint has been received by the Monterey County Civil Grand Jury.

Please provide the following:

1. Provide a complete roster of employees of the Housing Authority.
2. Provide a complete roster and payroll for each position employed by the Housing Authority.
3. Provide all financial audits completed in the last 5 years.
4. Provide a complete list of all grants applied for and or received by the Housing Authority in the last 5 years.
5. Provide a complete list of all gifts and or bonuses given by the Housing Authority.
6. Provide a complete list of all capital improvement projects in the last 5 years.
7. Provide a list of all bidders for each capital improvement project.
8. Provide a current copy of the personnel manual.
9. Provide a copy of all documentation and reports that were provided to Local, State, and Federal entities as required for the acceptance and use of funds from each agency.
10. Provide current banking and investment documents which show current balances in each account or investment.
11. Provide a complete list of the properties owned by the Housing Authority and the current value of each property.
12. Provide a complete list of all properties owned by the Housing Authority and the amount owed/financed on each property.
13. Provide a complete list of all properties managed by the Housing Authority.
14. Provide a copy of the financial documentation as provided to The Board of Commissioners, Local, State, and Federal entities.
15. Provide a list of all credit cards used by the Housing Authority, the balance on each credit card, and the person the credit card is issued.

Please provide the records in a searchable/sortable electronic database format such as Microsoft Excel (.xls) or another standard electronic file format (such as .csv).