

**RESO #2017-41**

**RESOLUTION AUTHORIZING THE ISSUANCE AND SALE BY THE HOUSING AUTHORITY OF THE BOROUGH OF HIGHLAND PARK OF A PROMISSORY NOTE IN CONNECTION WITH THE RENTAL ASSISTANCE DEMONSTRATION PROJECT, SERIES 2017 (OR ANY SUCH OTHER YEAR DESIGNATION AS MAY BE APPROPRIATE) IN A PRINCIPAL AMOUNT NOT TO EXCEED \$473,500, AND AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF AGREEMENTS AND RELATED INSTRUMENTS AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH**

**ADOPTED: AUGUST 23, 2017**

**WHEREAS**, the Housing Authority of the Borough of Highland Park (the “Authority”) is a public body corporate and politic, constituting an agency and instrumentality of the State of New Jersey (the “State”), created by the Borough of Highland Park (the “Borough”), in the County of Middlesex, within the State, pursuant to the provisions of the Housing Authorities Law, Chapter 67 of the Pamphlet Laws of 1950, codified at N.J.S.A. 55:14A-1 *et seq.*, repealed and replaced by the Local Redevelopment and Housing Law, under Chapter 79 of the Pamphlet Laws of 1992, as amended and supplemented, and codified at N.J.S.A. 40A:12A-1 *et seq.* (the “Act”); and

**WHEREAS**, the Authority owns and operates residential rental public housing projects (the “Housing Projects”), for which it has received approval from the United States Department of Housing and Urban Development (“HUD”) to convert 24 of its public housing units to Authority-owned and operated multifamily housing under the Rental Assistance Demonstration program, P.L. 112-55 (2012) (“RAD”), administered by HUD; and

**WHEREAS**, the Authority has submitted an application to HUD to obtain HUD approval of the Authority’s physical needs assessment (“PNA”) and it’s financing plan and such application was approved by HUD; and

**WHEREAS**, the Authority has received a RAD Conversion Commitment dated May 26, 2017, as may be amended and extended from time to time (the “RCC”) from HUD; and

**WHEREAS**, the Act authorizes the Authority to issue promissory notes, bonds, certificates, debentures or other obligations to accomplish its purposes (N.J.S.A. 40A:12A-16(5) and -29); and

**WHEREAS**, the Authority has received a commitment from New Jersey Community Capital (the “Lender”) dated March 2, 2017, as extended from time to time (the “Commitment”), containing the terms and conditions of a loan from the Lender to the Authority in the amount of \$473,500 (the “Loan”); and

**WHEREAS**, in furtherance of the purposes of the Act, and in order to comply with the RAD program, the Authority proposes to undertake a financing and to execute and deliver loan

documents, including a Promissory Note (the “Promissory Note”) in the aggregate principal amount not to exceed \$473,500 to evidence the Loan and to apply the proceeds of the Promissory Note, together with other available moneys of the Authority, to (i) finance capital improvements to the Housing Projects, (ii) fund replacement reserves for the Housing Projects that are subject to the RAD program and (iii) pay costs of issuance in connection therewith (collectively, the “Project”); and

**WHEREAS**, the Promissory Note, when issued, will be a special and limited obligation of the Authority, and neither the Borough, nor any political subdivision thereof (other than the Authority, but solely to the extent of the Trust Estate (as defined in Section 2 hereof)), will be obligated to pay the principal or redemption price of, or interest on, the Promissory Note, and neither the faith and credit nor the taxing power of the Borough or any political subdivision thereof will be pledged to the payment of the principal or redemption price of, or interest on, the Promissory Note.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE HOUSING AUTHORITY OF THE BOROUGH OF HIGHLAND PARK as follows:

Section 1. The terms and conditions for and the undertaking of the Loan and the execution and delivery of the Promissory Note as provided in the Commitment are hereby approved and the Authorized Officers of the Authority (as hereinafter defined) are hereby authorized and directed to prepare, execute and deliver, nunc pro tunc, such Commitment to the Lender and any extensions and amendments thereto.

Section 2. In order to finance the cost of the Project, a Promissory Note of the Authority evidencing the Loan is hereby authorized to be issued in an aggregate principal amount not to exceed \$473,500. The Promissory Note shall be dated, shall bear interest at such rate of interest, and shall be payable as to principal and interest, all as specified in the Commitment. The interest rate payable on the Promissory Note shall be a fixed rate at the then equivalent 15-year Federal Finance Bank Rate plus three and forty-six hundredths per centum (3.46%) per annum (the “Interest Rate”) determined as the date of closing of the Promissory Note. If the financing does not close within 90 days of the date of the Commitment, the Interest Rate will expire and will be subject to change.

The Authority may prepay up to 10% of the original principal amount of the Promissory Note (\$47,350.00) each year without incurring a prepayment premium. In annual amounts greater than \$47,350.00, the Promissory Note shall not be subject to prepayment during the first five (5) years of the Term (as defined below). Thereafter, the Authority may prepay the Promissory Note, in whole or in part, subject to a prepayment premium equal to the greater of (i) one per centum (1.00%) per annum, or (ii) the present value of the difference between the remaining interest payments scheduled to be paid on the Promissory Note (or the portion of the Promissory Note being prepaid) to maturity and the remaining time to maturity as the Promissory Note, or a portion thereof, being prepaid made at 3.46% over the then current 15-year Federal Financing Bank or reasonably comparable index. No prepayment premium shall be due or payable in connection with the application of any insurance or condemnation proceeds to the

reduction of the principal balance of the Promissory Note.

During each year that the Promissory Note remains outstanding, the Authority agrees to comply with the covenants set forth in the Commitment. The Promissory Note shall be issued for a term of fifteen (15) years (the "Term"), shall mature, shall have such other details and provisions and shall be in the form as prescribed by the Commitment and set forth in the Promissory Note.

Section 3. The Promissory Note shall be a special, limited obligation of the Authority, payable solely out of the moneys and revenues derived from the Housing Projects and all such moneys are hereby pledged to the payment of the Promissory Note (the "Trust Estate"). The payment of the principal of, premium, if any, and interest on the Promissory Note shall be secured by a pledge and assignment of revenues and certain rights of the Authority as described in the Commitment and in the Loan Documents (as defined below). Neither the members of the Authority nor any person executing the Promissory Note issued pursuant to this Resolution and the Act shall be liable personally on the Promissory Note by reason of the issuance thereof. The Promissory Note shall not be in any way a debt or liability of the State, the County of Middlesex, the Borough or any political subdivision of any of them, other than the Authority, whether legal, moral or otherwise.

Section 4. The Mortgage and Security Agreement and Fixture Filing, and Absolute Assignment of Leases and Rents (together with such other documents executed and delivered in connection therewith, including the Promissory Note, collectively, the "Loan Documents"), are each hereby authorized to be approved, executed and delivered by the Chairman, Vice Chairman, Executive Director, Secretary or any other authorized officer of the Authority (collectively, the "Authorized Officers") and such Authorized Officers are each hereby authorized and directed to approve, execute, acknowledge and deliver the Loan Documents, as applicable, and all instruments attached thereto or contemplated thereby, and other documents reasonably required thereby, the Commitment and hereby, with any changes, insertions and omissions as may be approved by the Chairman, Vice-Chairman, Executive Director or any other Authorized Officer of the Authority, in consultation with and upon the advice of Special RAD counsel to the Authority ("RAD Counsel") and each such person is hereby authorized and directed to affix the seal of the Authority on the Loan Documents, the Promissory Note and all instruments attached as exhibits thereto or contemplated thereby and attest the same. The execution and delivery of the Loan Documents shall be conclusive evidence of any approval required by this Section and no further action or approval by the Board shall be required.

Section 5. The Promissory Note is hereby authorized to be executed and delivered in accordance with the Loan Documents and the Commitment.

Section 6. The Promissory Note, generally in the form and substance required by the Loan Documents with any changes, insertions or omissions that may be approved by any Authorized Officer and all of the terms set forth therein is hereby approved and is incorporated as part of this Resolution with the same effect as if the entire text thereof were set forth herein in full. Any Authorized Officer is hereby authorized and directed to execute (by manual or

facsimile signature), acknowledge and deliver the Promissory Note, as the case may be, with any changes, insertions and omissions as may be approved by such Authorized Officer upon the advice of and in consultation with RAD Counsel to the Authority. The Secretary or Assistant Secretary or any other Authorized Officer of the Authority who shall have power to do so under the By-Laws of the Authority and any resolution adopted thereunder is hereby authorized to affix the seal of the Authority on the Promissory Note and attest the same. The execution of the Promissory Note as hereinabove provided shall be conclusive evidence of any approval required by this Section. The Authorized Officers are hereby designated to be the authorized representatives of the Authority, charged by this Resolution with the responsibility for executing and delivering the Promissory Note and each of them is hereby authorized and directed to execute and deliver any and all agreements, instruments, opinions, certificates, affidavits and other documents and to do and cause to be done any and all acts and things necessary or proper for carrying out this Resolution, the Loan Documents, the Commitment and the issuance of the Promissory Note to evidence the Loan.

Section 7. In the event any one or more of the provisions of this Resolution, the Loan Documents or the Promissory Note issued hereunder shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Resolution or the Loan Documents and the Promissory Note shall be construed and enforced as if such illegal or invalid provision had not been contained therein.

Section 8. The Executive Director of the Authority is hereby authorized and directed to execute and deliver a Certificate of Determination and Award on the date of closing containing the details with respect to the terms and conditions of the Loan and the Promissory Note within the parameters set forth herein and in the commitment, and such execution and delivery shall be conclusive evidence of the approval of the terms thereof. The Authorized Officer executing any such Certificate shall keep a copy of this Resolution on file with the Secretary of the Authority for review by any member of the governing body of the Authority or governing body or administration of the Borough of Highland Park, and for review by others in accordance with applicable law.

Section 9. The Authority hereby approves the RCC between the Authority and HUD dated May 26, 2017, and the Authorized Officers are hereby authorized and directed to execute and deliver, nunc pro tunc, the RCC and any extensions and amendments thereto to HUD. The Authorized Officers of the Authority are hereby further authorized and directed to execute and deliver such documents, and to take such other actions as may be necessary or appropriate in order to consummate the transactions contemplated hereby.

Section 10. The Secretary or Assistant Secretary of the Authority is hereby authorized and directed to file a certified copy of this Resolution after adoption with the Clerk of the Borough.

Section 11. This Resolution shall take effect immediately.

Recorded Vote

Commissioner, William Rainwater, made a motion to adopt aforesaid Resolution;

Commissioner, Raysa Martinez Kruger, seconded the motion.

	<u>AYE</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
Steven G. Chudnick, Chairman	X			
Raysa Martinez Kruger, Vice Chairman	X			
Regis Methven	X			
Donald Monk				X
William Rainwater	X			
Diane Reh	X			
Evelyn Sedehi	X			

CERTIFICATION

The foregoing is a true copy of a resolution entitled, “RESOLUTION AUTHORIZING THE ISSUANCE AND SALE BY THE HOUSING AUTHORITY OF THE BOROUGH OF HIGHLAND PARK OF A PROMISSORY NOTE IN CONNECTION WITH THE RENTAL ASSISTANCE DEMONSTRATION PROJECT, SERIES 2017 (OR ANY SUCH OTHER YEAR DESIGNATION AS MAY BE APPROPRIATE) IN A PRINCIPAL AMOUNT NOT TO EXCEED \$473,500, AND AUTHORIZING AND APPROVING THE EXECUTION AND DELIVERY OF AGREEMENTS AND RELATED INSTRUMENTS AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH” (the “Resolution”) adopted by the Commissioners of the Housing Authority of the Borough of Highland Park, in the County of Middlesex, New Jersey at a meeting of such Housing Authority duly called and held on August 23, 2017, in accordance with the Open Public Meetings Act and at which meeting a quorum was present and acting throughout, and such Resolution has not been amended, repealed or supplemented but remains in full force and effect on and as of the date hereof.

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Donna Brightman, Executive Director