

REVISED: 12/17/15



10400 Detrick Avenue
Kensington, MD 20895-2484
(240) 627-9425



SPECIAL SESSION AGENDA

**December 18, 2015
Hearing Room
9:00 a.m.**

Committee Reports and Recommendations for Action

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Committee Reports and Recommendations for Action

APPROVAL OF THE FY'17 COUNTY OPERATING BUDGET MARC REDUCTION

December 18, 2015

- On November 12, 2015, HOC submitted a base budget or Maximum Agency Request Ceiling (MARC) of \$6,487,218 for FY'17 equal to the approved FY'16 MARC of \$6,401,408 plus an adjustment for health and retirement benefits of \$65,810 and an adjustment for an increase in rental license fees of \$20,000.
- On December 3, 2015, the County Executive formally requested that HOC submit a FY'17 County Operating Budget MARC Reduction of two percent or \$128,028 (FY'16 approved MARC of \$6,401,408 x 2% = \$128,028) in order to maintain a balanced County budget.
- Due to the magnitude of the proposed reduction, HOC's practice has been to have staff to work through identifying appropriate components to make up the reduction during the budget process.
- Staff will inform the County that reductions equal to the \$128,028 request will be identified during the development of HOC's FY'17 Operating Budget with details provided to the County at a later date.

MEMORANDUM

TO: Housing Opportunities Commission

VIA: Stacy L. Spann, Executive Director

FROM: Division: Finance Staff: Gail Willison Ext 9480
 Terri Fowler Ext. 9507

RE: Approval of the FY'17 County Operating Budget MARC Reduction

DATE: December 18, 2015

STATUS: Committee Report Deliberation Future Action

OVERALL GOAL & OBJECTIVE:
Approval of the proposed FY'17 County Operating Budget MARC Reduction

BACKGROUND:

On October 6, 2015, the Office of Management and Budget (OMB) informed all department heads that there could potentially be two submissions for the FY'17 County Operating Budget. The Agency was required to submit a base budget or Maximum Agency Request Ceiling (MARC) for FY'17 not to exceed \$6,487,218 by November 12, 2015. The original FY'17 MARC was based on the FY'16 approved MARC of \$6,401,408 plus an adjustment for health and retirement benefits of \$65,810 and an adjustment for an increase in rental license fees of \$20,000.

The County Finance Department's December Fiscal Plan update, which incorporates the approved FY'16 Savings Plan and a revised revenue forecast, projects a gap of \$179 million compared to the current approved budget. On December 3, 2015, HOC was informed that the target reduction amount is two percent of the FY'16 operating budget and is inclusive of Savings Plan reductions included in the original FY'17 MARCs.

As mentioned above, HOC's original Maximum Allowable Request Ceiling (MARC) for FY'17 was \$6,487,218. A reduction of two percent or \$128,028 (FY'16 approved MARC of \$6,401,408 x 2% = \$128,028) is now being requested. The MARC reduction is due to the Office of Management and Budget (OMB) by December 23, 2015.

ISSUES FOR CONSIDERATION:**HOC – FY'17 Operating Budget:**

HOC's FY'17 Operating Budget is still in the early stages of development. Due to the magnitude of the proposed reduction, HOC's practice has been to have staff to work through identifying appropriate components to make up the reduction during the budget process. The recommendations will be discussed with Commission members at the April and May Budget, Finance and Audit Committee meetings. Final recommendations will be included in the budget that will be presented for adoption at the June Commission meeting.

Staff will inform the County that reductions equal to the \$128,028 request will be identified during the development of HOC's FY'17 Operating Budget with details provided to the County at a later date.

BUDGET IMPACT:

The County's Operating Grant is the primary funding source for the Agency's Resident Services and Housing Resources Divisions.

TIME FRAME:

The Budget, Finance and Audit Committee reviewed the proposed strategy for the FY'17 County Operating Budget MARC Reduction at the December 8, 2015 meeting. Action is requested at the December 18, 2015 meeting in order to meet the submission deadline of December 23, 2015 with details provided to the County at a later date.

COMMISSION ACTION REQUESTED:

The Budget, Finance and Audit Committee recommends to the full Commission approval of the proposed FY'17 County Operating Budget MARC Reduction at the December 18, 2015 meeting in order to meet the submission deadline of December 23, 2015.

RESOLUTION NO:

RE: Approval of the FY'17
County Operating Budget
MARC Reduction

WHEREAS, the Housing Opportunities Commission of Montgomery County has to submit a County Operating Budget MARC Reduction for FY'17; and

WHEREAS, the County has requested HOC submit a proposed MARC Reduction of two percent or \$128,028 (FY'16 approved MARC of \$6,401,408 x 2% = \$128,028) for FY'17.

NOW, THEREFORE, BE IT RESOLVED by the Housing Opportunities Commission of Montgomery County that it hereby approves the submission of the FY'17 County Operating Budget MARC Reduction totaling \$128,028 with details provided to the County at a later date.

Patrice Birdsong
Special Assistant to the Commission

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Deliberation and/or Action

**AUTHORIZATION FOR ADVANCED FIRE PROTECTION SYSTEMS, LLC TO
COMPLETE SPRINKLER INSTALLATION AT ARCOLA TOWERS ON BEHALF OF
ARCOLA TOWERS RAD LIMITED PARTNERSHIP**

December 18, 2015

- On June 3, 2015, the Commission selected Advanced Fire Protection Systems, LLC to install sprinkler and alarm systems at Arcola Towers and authorized the Executive Director to award a contract to be funded with County CIP funds.
- HOC originally expected the sprinkler installation to have been completed prior to the financial closing of the renovation of Arcola Towers, but delays in obtaining permits necessitated a new installation schedule.
- The financial closing and the transfer of Arcola Towers from HOC ownership to Arcola Towers RAD Limited Partnership (“Limited Partnership”) will occur prior to the start of the sprinkler installation; therefore, the installation contract must be assigned to the Limited Partnership.
- Assignment of the contract to the Limited Partnership allows the cost of the sprinkler and alarm installation to be added to the renovation project basis. This generates additional tax credit equity for the project. However, this also lowers the tax-exempt bonds as a percentage of total eligible project costs below the required 50% threshold.
- In order to meet the 50% test for Federal Tax Law purposes, HOC must issue additional private activity tax-exempt bonds and can do so during the third quarter of FY 2016.
- Staff recommends that the Commission approve: 1) assignment of the sprinkler installation contract to Arcola Towers RAD Limited Partnership; 2) changes to the development budget that add the cost of the sprinkler and fire alarm systems to the development budget and temporarily reduce the developer fee; 3) a guarantee of the interim funding of the sprinkler and alarm systems installation; and 4) a guarantee of the permanent funding of the sprinkler and alarm systems installation.

MEMORANDUM

TO: Housing Opportunities Commission

VIA: Stacy L. Spann, Executive Director

FROM: Division: Real Estate
Staff: Kayrine V. Brown, Chief Investment & Real Estate Officer Ext. 9589
Zachary Marks, Assistant Director of New Development Ext. 9613
Jay Shepherd, Senior Financial Analyst Ext. 9437

RE: Authorization for Advanced Fire Protection Systems, LLC to Complete Sprinkler Installation at Arcola Towers on Behalf of Arcola Towers RAD Limited Partnership

DATE: January 18, 2015

STATUS: Consent Deliberation Status Report Future Action

OVERALL GOAL & OBJECTIVE:

To obtain Commission authorization for Advanced Fire Protection Systems, LLC to complete sprinkler installation at Arcola Towers on behalf of Arcola Towers RAD Limited Partnership and the approval of other actions to facilitate the closing of the transaction.

BACKGROUND:

On June 3, 2015, the Commission approved the selection of Advanced Fire Protection Systems, LLC (“AFPS”) to install a fire alarm and sprinkler systems and accompanying fire alarms that will provide full fire protection coverage to the 141-unit Arcola Towers elderly Public Housing property. Currently, the property only has sprinkler coverage in the laundry rooms and common areas. The installation of the new system is completely funded by County Capital Improvements Program (“CIP”) funds in the amount of \$2,659,858.

Since the approval, HOC entered into a contract with AFPS to install the sprinkler and fire systems at a cost of \$2,325,500. AFPS completed drawings for the sprinkler and alarm and submitted those to secure the building permit. AFPS and HOC staff expected the Department of Permitting Services (“DPS”) process to take approximately six weeks. Instead, the permit took more than 150 days to secure. Because AFPS still had to complete detailed drawings for the sprinkler and alarm installation to submit for the sprinkler/low-voltage permit, the DPS delay made it impossible to complete the sprinkler work in advance of the closing of the full property renovation financing. So, HOC staff had to develop a different implementation of the funding for the sprinkler work given that the ownership of Arcola Towers would be passing from HOC to a LIHTC partnership.

Because the general contractor for the Arcola Towers renovations can participate in and coordinate the installation, HOC is able to recognize savings in the AFPS contract. This would reduce the cost of the AFPS scope to \$1,898,330.

Were Arcola Towers to remain under HOC ownership during the installation of the sprinkler and alarm systems, HOC would simply manage and fund the installation on an interim basis and then draw on the County CIP funds to be reimbursed. With the sale of Arcola Towers to the LIHTC partnership set to take place on Friday, December 18, 2015, staff recommends two core changes: 1) the contract with AFPS is assigned to the LIHTC partnership, and 2) the cost of the sprinkler installation be added to the rehabilitation project budget.

NEW IMPLEMENTATION

Upon disposition of Arcola Towers to the LIHTC partnership, the contract with AFPS would be assigned by HOC to the LIHTC partnership. Upon assignment, the entire scope of work for the sprinkler and alarm systems will be included as additional cost to the overall development budget. AFPS would complete the detailed drawings and secure the remaining required permit by April 1, 2016. HOC will continue to fund AFPS' design work via loans to the LIHTC partnership. Once permitted, AFPS would begin installation, which should take approximately three months. County CIP monies loaned to the partnership would fund the installation of the sprinkler and alarm systems to completion. Upon completion of the installation, HOC would convert the loan to a capital contribution.

The additional cost of the sprinkler and alarm systems will push the total LIHTC eligible basis costs higher and push tax-exempt bonds as a percentage of total eligible costs below the 50% threshold required by tax law. To ensure we satisfy the 50% threshold Federal Tax Law requirement, HOC can issue sufficient additional short-term tax-exempt bonds under the current Commission Bond Authorizing and TEFRA resolutions.

Should the Commission approve this approach, staff would bring the request to issue additional bonds before the Commission by end of the third quarter of Fiscal Year 2016. However, because the project financing will close prior to this new issuance, another basis-eligible cost must be temporarily reduced – again, to meet the Federal 50% Test. Staff is recommending reducing the development fee to offset the increase cost for the sprinkler and fire alarm systems. The current development budget includes \$2,500,000 development fee. To offset the increase in cost, the development fee will be reduced to \$601,670. Upon issuance of the additional short-term tax-exempt bonds, the development fee would be fully restored. The risk to the restoration of the development fee is short-term and would only be realized should HOC fail to issue the additional short-term tax-exempt bonds.

The benefit to HOC of including the cost of installation of the sprinkler and alarm systems in the renovation budget is that additional tax-credit equity of \$700,699 will be generated. Since the total cost of the new work will be ultimately funded through the County CIP funds, the additional tax credit equity will be used to defer less development fee. Prior to this new work being included to the eligible basis costs, HOC staff projected that the project would have to defer approximately \$1,173,978 in development fees. Inclusion of the cost of the sprinkler and alarm systems installation would decrease HOC's deferred fees to only \$473,279. The LIHTC investor, Boston Capital, supports HOC's recommendation as it increase in tax credits available for purchase.

However, Boston Capital is requiring that HOC guarantee the interim funds for both the initial funding of the sprinkler and alarm systems installation. Neither the risk of HOC being able to issue the additional bonds in the third quarter of FY 2016 nor the risk of the CIP reimbursement not occurring is meaningful: 1) HOC will be provided a new year's worth of bond authority (approximately \$35MM) as of January 1, 2016, and 2) for CIP projects, HOC is required to initially fund out of its own resources based on the commitment of the County to reimburse HOC with CIP funds.

ISSUES FOR CONSIDERATION:

Does the Commission wish to approve:

1. Assignment of the sprinkler installation contract to Arcola Towers RAD Limited Partnership?
2. Changes to the development budget that add the cost of the sprinkler and alarm systems and temporarily reduce the developer fee? (The full developer fee will be restored from the issuance of additional private activity tax-exempt bonds in the third quarter of FY 2016.)
3. A guarantee the interim funding of the sprinkler and alarm systems installation?
4. A guarantee of the permanent funding of the sprinkler and alarm systems installation?

PRINCIPALS:

Housing Opportunities Commission of Montgomery County
Montgomery County
Arcola Towers RAD Limited Partnership

BUDGET/FISCAL IMPACT:

There is no direct impact on the current HOC Operating Budget because no developer fee was projected to be earned in FY 2016. Further, funds for the installation of the sprinklers were provided by Montgomery County's Capital Improvement Program; therefore, there is no cost to HOC. Finally, by approving the aforementioned changes, the Commission would cause the total eligible basis for the project to increase, resulting in increased equity raised and reduce amount of any developer fees that would be deferred, a positive outcome for HOC.

TIME FRAME:

Action at the Special Session of the Commission on December 18, 2015.

STAFF RECOMMENDATION & COMMISSION ACTION NEEDED:

Staff recommends that the Commission approve:

1. Assignment of the sprinkler installation contract to Arcola Towers RAD Limited Partnership;
2. Changes to the development budget that add the cost of the sprinkler and alarm systems to the development budget and temporarily reduce the developer fee;
3. A guarantee of the interim funding of the sprinkler and alarm systems installation;
4. A guarantee of the permanent funding of the sprinkler and alarm systems installation.

RESOLUTION NO.: 15-107

RE: Authorization for Advanced Fire Protection Systems, LLC to Complete Sprinkler Installation at Arcola Towers on Behalf of Arcola Towers RAD Limited Partnership

WHEREAS, the Housing Opportunities Commission of Montgomery County (“HOC” or “Commission”), a public body corporate and politic duly organized under Division II of the Housing and Community Development Article of the Annotated Code of Maryland, as amended, known as the Housing Authorities Law, is authorized thereby to effectuate the purpose of providing affordable housing, including providing for the acquisition, construction, rehabilitation and/or permanent financing or refinancing (or a plan of financing) of rental housing properties which provide a public purpose; and

WHEREAS, on June 3, 2015, the Commission awarded a contract to Advanced Fire Protection Systems, LLC (AFPS) under IFB# 1950 for fire protection and code upgrades and related repairs (“Sprinkler Work”) at Arcola Towers (“Property”), which were to be funded from County Capital Improvements Program (CIP) monies in the amount of \$2,659,858 prior to the conversion of the Property under the US Department of Housing and Urban Development’s (HUD’s) Rental Assistance Demonstration program (“RAD Program”); and

WHEREAS, due to unforeseen delays relating to the Montgomery County Department of Permitting Services (DPS) process, and additional work that AFPS still has to complete detailed drawings for the sprinkler and alarm installation for purposes of the sprinkler/low-voltage permit, the DPS delay means the Sprinkler Work will not take place prior to the conversion of the Property under the RAD Program; and

WHEREAS, the Property is projected to convert under the RAD Program on or about December 21, 2015 at which time the Property will be transferred by the Commission to Arcola Towers RAD Limited Partnership (“Partnership”), which Partnership will receive the benefit of the Sprinkler Work; and

WHEREAS, the Commission wishes to assign its contract with AFPS for the Sprinkler Work (“Sprinkler Contract”) to the Partnership and wishes for the Partnership to assume the rights and obligations thereunder; and

WHEREAS, on August 6, 2014, the Commission approved Harkins Builders, LLC (“Harkins”) to serve as the general contractor for the Arcola Towers renovation as part of the conversion of the Property under the RAD Program and there are economies and efficiencies to be gained by having Harkins perform some of AFPS’s scope of work under the general construction contract if the Sprinkler Contract is amended accordingly; and

WHEREAS, the rehabilitation of the Property will be funded through tax-exempt bond proceeds as part of a low-income housing tax-credit (LIHTC) transaction; and

WHEREAS, the addition of the Sprinkler Work to the Partnership’s general rehabilitation budget allows the cost of the Sprinkler Work to be added to the development’s tax-credit basis and thereby generates additional tax credits and equity for the development, but it also lowers the tax-exempt bonds as a percentage of total eligible project costs below the 50% threshold required for tax-exempt bond LIHTC deals pursuant to Section 42 of the Internal Revenue Code (“Federal 50% Test”); and

WHEREAS, the Commission wishes to satisfy the Federal 50% Test by issuing additional short-term tax-exempt obligations and providing a construction-period loan of such proceeds to the Partnership (“Tax-Exempt Funding”), which issuance is anticipated to take place during the third quarter of FY 2016 after the Commission has an opportunity to consider and approve the terms of such funding, as will be evidenced by its adoption of a separate resolution; and

WHEREAS, the equity closing, which is anticipated to take place simultaneously with the RAD conversion on or about December 21, 2015, will take place prior to the closing on the Tax-Exempt Funding, necessitating that another basis-eligible cost be temporarily reduced in the interim period in order to meet the Federal 50% Test; and

WHEREAS, to offset the cost for the Sprinkler Work, HOC staff supports a solution that calls for a reduction in the development fee from \$2,500,000 to approximately \$601,670, which development fee would be restored to the full \$2,500,000 amount upon the closing of the Tax-Exempt Funding; and

WHEREAS, at the time of the equity closing, the Partnership’s tax-credit investor, an affiliate of Boston Capital Partners, Inc. (“Investor”), requires a commitment or guaranty of funding to cover the Sprinkler Work in the interim period until the closing of the Tax-Exempt Funding (the “Interim Funding”) and a commitment or guaranty of permanent funding to repay either the Tax-Exempt Funding or the Interim Funding (“Repayment Funding”); and

WHEREAS, the Commission anticipates that the Repayment Funding will be funded with CIP monies from the County.

NOW, THEREFORE, BE IT RESOLVED that the Housing Opportunities Commission of Montgomery County, acting in its own capacity and for and on behalf of Arcola Towers RAD GP LLC, acting for and on behalf of the Partnership, hereby authorizes and directs the Executive Director to execute an assignment and assumption of the Sprinkler Contract between the Commission and the Partnership and an amendment of the Sprinkler Contract to shift some of the scope of work to the general construction contract with Harkins.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County, acting in its own capacity and for and on behalf of Arcola Towers RAD GP LLC, acting for and on behalf of the Partnership, hereby authorizes a temporary reduction of the development fee payable to the Commission by the Partnership, to the extent required to meet the Federal 50% Test, and a restoration of the development fee to the full amount permitted upon the closing of the Tax-Exempt Funding.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County, acting in its own capacity and for and on behalf of Arcola Towers RAD GP LLC, acting for and on behalf of the Partnership, hereby authorizes and directs the Executive Director to issue a commitment or guaranty for the Interim Funding and Repayment Funding.

BE IT FURTHER RESOLVED that the Housing Opportunities Commission of Montgomery County, acting in its own capacity and for and on behalf of Arcola Towers RAD GP LLC, acting for and on behalf of the Partnership, hereby authorizes and directs the Executive Director, without further action on their respective parts, to take any and all other actions necessary and proper to carry out the transaction contemplated herein including.

I HEREBY CERTIFY that the foregoing resolution was adopted by the Housing Opportunities Commission of Montgomery County, acting in its own capacity and for and on behalf of Arcola Towers RAD GP LLC, acting for and on behalf of the Arcola Towers RAD Limited Partnership, at a special session conducted on December 18, 2015.

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Patrice M. Birdsong
Special Assistant to the Commission