



10400 Detrick Avenue  
 Kensington, Maryland 20895  
 240-627-9425

**SPECIAL SESSION/ADMINISTRATIVE SESSION AGENDA**

**August 14, 2018  
 Hearing Room**

			<b>Res. #</b>
12:00 noon	<b>I. <u>ITEMS REQUIRING DELIBERATION and/or ACTION</u></b>		
Page 03	1. Approval to Make a \$374,130 Capital Contribution to MHLP IX, LP to Pay the Deferred Developer Fee		18-61 (pg. 06)
12:30 p.m.	<b>ADJOURN</b> <i>This Administrative Session will be called to order pursuant to Section 3-305(b)(3)(Real Estate)</i>		

NOTES:

1. This Agenda is subject to change without notice.
2. Public participation is permitted on Agenda items in the same manner as if the Commission was holding a legislative-type Public Hearing.
3. Times are approximate and may vary depending on length of discussion.
4. \*These items are listed "For Future Action" to give advance notice of coming Agenda topics and not for action at this meeting.
5. Commission briefing materials are available in the Commission offices the Monday prior to a Wednesday meeting.

If you require any aids or services to fully participate in this meeting, please call (240) 627-9425 or email [commissioners@hocmc.org](mailto:commissioners@hocmc.org).

# Deliberation and/or Action

## **Approval to Make a \$374,130 Capital Contribution to MHLP IX, LP to Pay the Deferred Developer Fee**

**August 14, 2018**

- Montgomery Homes Limited Partnership IX, (a Maryland limited partnership (“MHLP IX” or the “Partnership”)), was organized as of July 27, 1995 for the purpose of acquiring 76 moderately priced dwelling units (“MPDUs”) located throughout Montgomery County, and constructing 40 MPDUs located at Pond Ridge in Olney, Maryland. The partners of MHLP IX include HOC, as General Partner, and Wells Fargo Affordable Housing Community Development Corporation, as the Investor Limited Partner.
- Pursuant to the terms of the partnership, the General Partner (HOC) earned a developer fee for services rendered, of which \$374,130.00 was deferred. As of December 31, 2017, the \$374,130.00 deferred developer fee remains payable on MHLP IX’s books.
- Investor Limited Partner desires to assign all or its rights and obligations in and to MHLP IX to HOC. As part of the assignment, the Partnership must pay the deferred developer. Otherwise, should an audit of the transaction arise, tax credits received by the Investor Limited Partner could be challenged by the IRS because of the inclusion of the developer fee in eligible basis for the Partnership.
- The HOC 15 YR Consultant, has advised that HOC, as the General Partner, make a capital contribution to MHLP IX in the amount of the deferred developer fee. In turn, MHLP IX will pay the outstanding deferred developer fee.
- Staff proposes that HOC, as General Partner, approve a capital contribution from the OHRF to MHLP IX to pay the deferred developer fee. Once paid, HOC will use the receipt of said deferred developer fee to repay the OHRF.

**MEMORANDUM**

**TO:** Housing Opportunities Commission

**VIA:** Stacy L. Spann, Executive Director

**FROM:** Staff:       Cornelia Kent                   Division:       Finance                   Ext. 9754  
                          Eugenia Pascual   Finance                   Ext. 9478

**RE:**       Approval to Make a \$374,130.00 Capital Contribution to MHLP IX, LP to Pay the Deferred Developer Fee

**DATE:**     August 14, 2018

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**STATUS:**   Committee Reports: Deliberation   X  

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**OVERALL GOAL & OBJECTIVE:**

To facilitate the payment of the outstanding deferred developer fee by MHLP IX to HOC.

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**BACKGROUND:**

Montgomery Homes Limited Partnership IX (“MHLP IX”) was organized as of July 27, 1995, for the purpose of (i) acquiring 76 moderately priced dwelling units (“MPDUs”) in various parts of Montgomery County, Maryland and, (ii) constructing 40 MPDUs at Pond Ridge in Olney, Maryland, to be operated as rental housing for low and moderate income families in accordance with the Low Income Housing Tax Credit (“LIHTC”) program. The partners of MHLP IX include HOC, as General Partner, and Wells Fargo Affordable Housing Community Development Corporation, as the Investor Limited Partner.

Pursuant to the terms of the Partnership, the General Partner (HOC) earned a developer fee for services rendered in the development of the project, of which \$374,130.00 was deferred. As of December 31, 2017, the deferred developer fee of \$374,130.00 remains on the books of MHLP IX.

The Investor Limited Partner desires to assign all of its interests and obligations in MHLP IX to HOC or an affiliate controlled by HOC. HOC engaged MACP/Censeo as its 15 - year consultant for LIHTC projects, and MACP/Censeo engaged the law firm of Nuyen, Tomtishen and Aoun PC (“NTA Law”) to negotiate terms and assist in the assignment of the Investor Limited Partner’s interest.

In order to complete the assignment of its interest to HOC, the Investor Limited Partner requires that the deferred developer fee be paid prior to the assignment.

NTA Law, through the Year 15 – Consultant, has advised that HOC, as the General Partner, make a capital contribution to MHLP IX in the amount of the deferred developer fee. In turn, MHLP IX will pay the outstanding deferred developer fee. Once the transaction has been completed, the Investor Limited Partner will assign its interest in MHLP IX to HOC YR 15, LLC an entity that is owned 100% by HOC. The entire transaction should be completed by September 1, 2018.

MHLP IX does not have the resources to pay the outstanding deferred developer fee. Therefore, staff is requesting approval for a capital contribution of \$374,130.00 to be made from the OHRF to MHLP IX to pay the deferred developer fee. Once HOC receives the deferred developer fee, HOC will repay the amount to the OHRF.

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**ISSUES FOR CONSIDERATION:**

Does the Commission wish to approve \$374,130.00 to be used as a capital contribution to MHLP IX from the OHRF to pay off the deferred developer fee? The current balance in the OHRF as of August 1, 2018 is \$3,763,762.

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**BUDGET/FISCAL IMPACT:**

There is no budget impact related to the \$374,130.00 capital contribution to MHLP IX from HOC, as General Partner of MHLP IX. However, HOC will recognize revenue of \$374,130.00 to the general fund from payment of the deferred developer fee. The proceeds will immediately be used to pay back the OHRF; there, the budget and fiscal impact are neutral.

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**TIME FRAME:**

The Budget, Finance and Audit Committee reviewed the request to approve a capital contribution of \$374,130.00 to MHLP IX from HOC, General Partner of MHLP IX, to pay off the deferred developer fee. For Commission action at the August 14, 2018 Special Session meeting of the Commission.

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**STAFF RECOMMENDATION & COMMISSION ACTION NEEDED:**

The Budget, Finance and Audit Committee recommends to the full Commission approval of the \$374,130.00 capital contribution to MHLP IX from HOC, General Partner of MHLP IX, to pay off the deferred developer fee.

**RESOLUTION NO.: 18-61**

**RE: Approval to Make a \$374,130.00  
Capital Contribution to MHLP IX,  
LP to Pay the Deferred Developer  
Fee**

**WHEREAS**, Montgomery Homes Limited Partnership IX, (a Maryland limited partnership (“MHLP IX” or the “Partnership”)), was organized as of July 27, 1995, for the purpose of acquiring 76 moderately priced dwelling units (“MPDUs”) in various parts of Montgomery County, Maryland and constructing 40 MPDUs at Pond Ridge in Olney, Maryland; and

**WHEREAS**, HOC is the General Partner, and Wells Fargo Affordable Housing Community Development Corporation is the “Investor Limited Partner” of MHLP IX; and

**WHEREAS**, pursuant to the terms of the Partnership, General Partner (HOC) earned a developer fee for services rendered in the development of the project, of which \$374,130.00 was deferred; and as of December 31, 2017, the deferred developer fee remains payable on the books of MHLP IX; and

**WHEREAS**, Investor Limited Partner desires to assign all of its rights, title, interest and obligations and requires that the deferred developer fee be paid prior to the assignment; and

**WHEREAS**, The HOC 15 YR Consultant has advised that HOC, as General Partner, make a capital contribution to MHLP IX for the full amount of the deferred developer fee, which MHLP IX will then use to pay the outstanding deferred developer fee due to HOC; and

**WHEREAS**, HOC, as General Partner, is requesting that a \$374,130.00 capital contribution be made from the OHRF to pay off the deferred developer fee.

**NOW, THEREFORE, BE IT RESOLVED** by the Housing Opportunities Commission of Montgomery County, Maryland, that \$374,130.00 be made as a capital contribution to Montgomery Homes Limited Partnership IX.

**BE IT FURTHER RESOLVED** that the capital contribution of \$374,130.00 be then used by MHLP IX to pay the outstanding deferred developer fee to HOC, the General Partner.

**BE IT FURTHER RESOLVED** that HOC, acting as the General Partner will use said proceeds once received, to repay the \$374,130.00 to the OHRF.

**BE IT FURTHER RESOLVED** by the Housing Opportunities Commission of Montgomery County, Maryland that its' Executive Director is authorized, without any further action on its part, to take any and all other actions necessary and proper to carry out the action contemplated herein, including but not limited to the execution of any and all documents related thereto.

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Patrice Birdsong  
Special Assistant to the Commission

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Adjourn



# Administrative Session