

RESOLUTION NO. 2020-07

A RESOLUTION OF THE BREVARD COUNTY HOUSING FINANCE AUTHORITY AUTHORIZING THE ISSUANCE BY THE AUTHORITY OF NOT EXCEEDING \$11,500,000 IN AGGREGATE PRINCIPAL AMOUNT OF ITS MULTIFAMILY HOUSING REVENUE NOTE (SOUTHLAKE TOWERS PROJECT) AND NOT EXCEEDING \$2,750,000 IN AGGREGATE PRINCIPAL AMOUNT OF ITS SUBORDINATE MULTIFAMILY HOUSING REVENUE NOTE, SERIES 2020B (SOUTHLAKE TOWERS PROJECT); ESTABLISHING PARAMETERS FOR THE AWARD OF THE SALE THEREOF AND ESTABLISHING CRITERIA FOR DETERMINING THE TERMS THEREOF, INCLUDING THE DATE, INTEREST RATES, INTEREST PAYMENT DATES AND MATURITY SCHEDULE AND OTHER TERMS OF SUCH NOTES; APPROVING THE FORMS OF AND AUTHORIZING THE EXECUTION OF A FUNDING LOAN AGREEMENT, PROJECT LOAN AGREEMENT, LAND USE RESTRICTION AGREEMENT, SUBORDINATE TRUST INDENTURE, SUBORDINATE LOAN AGREEMENT, AND RELATED LOAN DOCUMENTS; AUTHORIZING THE NEGOTIATED ISSUANCE AND DELIVERY OF THE NOTES; AUTHORIZING THE APPOINTMENT OF A FISCAL AGENT FOR THE GOVERNMENTAL NOTE AND A TRUSTEE FOR THE SUBORDINATE NOTE; AUTHORIZING THE CHAIR OR VICE CHAIR OR ANY AUTHORITY MEMBER AND THE SECRETARY TO TAKE ANY OTHER ACTIONS NECESSARY TO ISSUE THE NOTE AND MAKING OTHER PROVISIONS IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Legislature of the State of Florida (the "State") has enacted the Florida Housing Finance Authority Law, Sections 159.601 through 159.623, Florida Statutes, as amended, pursuant to which the State has empowered each county in the State to create by ordinance a separate public body corporate and politic, to be known as a housing finance authority of the county for which its was created, for the purpose of alleviating a shortage of housing and creating capital for investment in housing in the area of operation of such housing finance authority, and the Florida Industrial Development Financing Act, Sections 159.25 through 159.431, Florida Statutes, whereby "local agencies" are authorized to issue revenue

bonds to enhance economic activity in the state and improve the prosperity and welfare of the state and its inhabitants (collectively, the "Act"); and

WHEREAS, pursuant to the Act, the Board of County Commissioners of Brevard County, Florida (the "Board") enacted Ordinance No. 79-09, on March 15, 1979, as amended by Ordinance No. 84-16, adopted on May 10, 1984 (the "Ordinance"), creating the Brevard County Housing Finance Authority (the "Authority") to carry out and exercise, without limitation, except as expressly stated in such ordinance, all powers and public and governmental functions set forth in and contemplated by the Act; and

WHEREAS, the Authority is a local agency within the meaning of the Act; and

WHEREAS, pursuant to the Act and the Ordinance, the Authority has determined, in order to further economic activity and improve the prosperity and welfare of citizens of Brevard County, to authorize the issuance of not exceeding \$11,500,000 in aggregate principal amount of its Multifamily Housing Revenue Note, Series 2020 (Southlake Towers Project) (the "Governmental Note") and not exceeding \$2,750,000 in aggregate principal amount of its Subordinate Multifamily Housing Revenue Note, Series 2020B (Southlake Towers Project) (the "Subordinate Note"; collectively with the Governmental Notes, the "Notes") for the purpose of financing the acquisition and rehabilitation of a residential rental project for persons of low and moderate income known as Southlake Towers (the "Project") located in Brevard County, Florida (the "County"); and

WHEREAS, the Authority deems it necessary to provide for the form of the hereinafter described Funding Loan Agreement, to be entered into with a bank or trust company to serve as Fiscal Agent, and to provide for the form of the hereinafter described Project Loan Agreement with respect to the Governmental Note, the form of Subordinate Trust Indenture, to be entered into with a bank or trust company to serve as Trustee, and to provide for the form of the hereinafter described Subordinate Loan Agreement with respect to the Subordinate Note, and form of Land Use Restriction Agreement with respect to the Notes, and to authorize additional documents in connection therewith; and

WHEREAS, the Authority intends to negotiate the issuance of the Governmental Note as hereinafter provided with Wells Fargo Bank, National Association (the "Initial Funding Lender") or to such other lender as may be acceptable to the Authority, and to negotiate the issuance of the Subordinate Note as hereinafter provided with South Atlantic Housing of Brevard, Inc. (the "Subordinate Note Purchaser"); and

WHEREAS, a public hearing regarding the issuance of the Notes was duly held by the Authority on April 22, 2020 and notice thereof was published on the Authority's website and on the website of Brevard County, Florida, and the issuance of said Notes was subsequently approved by resolution of the Board of County Commissioners of Brevard County, Florida, adopted May 5, 2020;

NOW, THEREFORE, BE IT RESOLVED BY THE BREVARD COUNTY HOUSING FINANCE AUTHORITY, as follows:

SECTION 1. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to the provisions of Part IV of Chapter 159, Florida Statutes, Part II of Chapter 159, Florida Statutes, and other applicable provisions of law.

SECTION 2. APPROVAL OF PROJECT. The financing of the acquisition and rehabilitation of the Project by Southlake Towers, LLLP, a Florida limited liability limited partnership (the "Borrower"), as described in the Project Loan Agreement and the Subordinate Loan Agreement, is hereby approved.

SECTION 3. AUTHORIZATION AND DESCRIPTION OF THE NOTES. There is hereby authorized and directed to be issued the Authority's Governmental Note in an aggregate principal amount not to exceed \$11,500,000 and the Authority's Subordinate Note in an aggregate principal amount not to exceed \$2,750,000. The Governmental Note shall be issued under and secured by the Funding Loan Agreement, in substantially the form attached hereto as Exhibit "A," with such modifications and changes as approved by the Chair or Vice Chair and Secretary or Assistant Secretary, their approval of which is presumed by their execution thereof. The form of the Governmental Note by this reference is hereby incorporated into this Resolution as if set forth in full herein. The Governmental Note shall mature in the amount and at the time, shall bear interest at the rate, be redeemable at the redemption price and upon the term and shall have the other characteristics, as set forth in the Funding Loan Agreement. The Subordinate Note shall be issued under and secured by the Subordinate Trust Indenture, in substantially the form attached hereto as Exhibit "D," with such modifications and changes as approved by the Chair or Vice Chair and Secretary or Assistant Secretary, their approval of which is presumed by their execution thereof. The form of the Subordinate Note by this reference is hereby incorporated into this Resolution as if set forth in full herein. The Subordinate Note shall mature in the amount and at the time, shall bear interest at the rate, be redeemable at the redemption price and upon the term and shall have the other characteristics, as set forth in the Subordinate Trust Indenture.

SECTION 4. NOTES ARE SPECIAL OBLIGATIONS OF THE AUTHORITY. The Notes are special obligations of the Authority which are payable solely from moneys derived under the Project Loan Agreement and the Subordinate Loan Agreement, respectively. The Notes, together with the interest thereon, are limited obligations of the Authority and neither the Authority, Brevard County, Florida, the State, nor any political subdivision thereof shall be obligated to pay the Notes or the interest thereon or other costs or payments incident thereto, except from the aforementioned revenues and receipts, and neither the faith and credit nor the taxing power of Brevard County, Florida, the State or any political subdivision thereof is pledged to the payment of the Notes or the interest thereon or other costs or payments incident thereto. The Authority has no taxing power. The Notes and obligations arising thereunder do not create or reflect liability of the Authority or any member, official or employee thereof, except as otherwise described in this Section 4.

SECTION 5. AUTHORIZATION OF EXECUTION OF FUNDING LOAN AGREEMENT. The Funding Loan Agreement among the Authority, Wells Fargo Bank, National Association, as initial Funding Lender and Wells Fargo Bank, National Association (the "Fiscal Agent"), in substantially the form attached hereto as Exhibit "A" (the "Funding Loan Agreement") is hereby approved, and the Chair, the Vice Chair, or other board member and the Secretary or Assistant Secretary of the Authority or their duly authorized alternate officers are hereby authorized and directed to execute and deliver the Funding Loan Agreement on behalf of and in the name of the Authority with such additional changes, insertions and omissions therein, including but not limited to, the insertion of rates, maturities, sinking fund redemption provisions and other details of the Governmental Note determined as herein provided and as may be made prior to the delivery of the Governmental Note, and as may be otherwise made and approved by the said officers of the Authority executing the same, such execution to be conclusive evidence of such approval.

SECTION 6. AUTHORIZATION OF EXECUTION OF PROJECT LOAN AGREEMENT. The Project Loan Agreement between the Authority, the Fiscal Agent and the Borrower, in substantially the form attached hereto as Exhibit "B" (the "Project Loan Agreement") is hereby approved, and the Chair, the Vice Chair, or other board member and the Secretary or Assistant Secretary of the Authority or their duly authorized alternate officers are hereby authorized and directed to execute and deliver the Project Loan Agreement on behalf of and in the name of the Authority with such additional changes, insertions and omissions therein as may be made and approved by the said officers of the Authority executing the same, such execution to be conclusive evidence of such approval.

SECTION 7. AUTHORIZATION OF EXECUTION OF LAND USE RESTRICTION AGREEMENT. The Land Use Restriction Agreement among the Borrower, the Authority and the Fiscal Agent in substantially the form attached hereto as Exhibit "C" (the "Land Use Restriction Agreement") is hereby approved, and the Chair, the Vice Chair, or other board member and the Secretary or Assistant Secretary of the Authority or their duly authorized alternate officers are hereby authorized and directed to execute and deliver the Land Use Restriction Agreement on behalf of and in the name of the Authority, with such additional changes, insertions and omissions therein as may be made and approved by the said officers of the Authority executing the same, such execution to be conclusive evidence of such approval.

SECTION 8. AUTHORIZATION OF EXECUTION OF SUBORDINATE TRUST INDENTURE. The Subordinate Trust Indenture between the Authority and Wells Fargo Bank, National Association, as trustee (the "Trustee"), in substantially the form attached hereto as Exhibit "D" (the "Subordinate Indenture") is hereby approved, and the Chair, the Vice Chair, or other board member and the Secretary or Assistant Secretary of the Authority or their duly authorized alternate officers are hereby authorized and directed to execute and deliver the Subordinate Indenture on behalf of and in the name of the Authority with such additional changes, insertions and omissions therein, including but not limited to, the insertion of rates, maturities, sinking fund redemption provisions and other details of the Subordinate Note

determined as herein provided and as may be made prior to the delivery of the Subordinate Note, and as may be otherwise made and approved by the said officers of the Authority executing the same, such execution to be conclusive evidence of such approval.

SECTION 9. AUTHORIZATION OF EXECUTION OF SUBORDINATE LOAN AGREEMENT. The Subordinate Loan Agreement between the Authority and the Borrower, in substantially the form attached hereto as Exhibit "E" (the "Subordinate Loan Agreement") is hereby approved, and the Chair, the Vice Chair, or other board member and the Secretary or Assistant Secretary of the Authority or their duly authorized alternate officers are hereby authorized and directed to execute and deliver the Subordinate Loan Agreement on behalf of and in the name of the Authority with such additional changes, insertions and omissions therein as may be made and approved by the said officers of the Authority executing the same, such execution to be conclusive evidence of such approval.

SECTION 10. ISSUANCE AND DELIVERY OF NOTES. It is hereby found and determined that due to the characteristics of the financing and the prevailing and anticipated market conditions, it is in the best interest of the Authority to negotiate the issuance and delivery of the Notes. The negotiated sale of the Governmental Note to Wells Fargo Bank, National Association, at a price of par, is hereby approved; provided that (i) the initial interest rate on the Governmental Note shall not exceed 4.5% per annum, and (ii) the final maturity of the Governmental Note shall not be later than 2029. The negotiated sale of the Subordinate Note to South Atlantic Housing of Brevard, Inc., at a price of par, is hereby approved; provided that (i) the initial interest rate on the Subordinate Note shall not exceed 8% per annum, and (ii) the final maturity of the Subordinate Note shall not be later than 2060.

SECTION 11. APPOINTMENT OF FISCAL AGENT AND TRUSTEE. With respect to the Governmental Note, Wells Fargo Bank, National Association is hereby appointed as Fiscal Agent, and with respect to the Subordinate Note, Wells Fargo Bank, National Association is hereby appointed as Trustee.

SECTION 12. GENERAL AUTHORITY. The Chair, the Vice Chair, and the Secretary or Assistant Secretary and all other members of the Authority and the staff of the Authority are hereby authorized and directed to execute any and all certifications or other instruments or documents required by the Funding Loan Agreement, the Project Loan Agreement, the Subordinate Indenture, the Subordinate Loan Agreement or any other document referred to above as a prerequisite or precondition to the issuance of the Notes, including, but not limited to, such mortgages and subordination agreements as shall be necessary to secure the repayment of the Notes, and any representation made therein shall be deemed to be made on behalf of the Authority. To the extent that the Chair, Vice Chair, and Secretary or Assistant Secretary of the Authority are unable for any reason to execute or deliver the documents referred to above, such documents may be executed, attested and/or delivered by their duly authorized alternate officers, with the same effect as if executed and/or delivered by the Chair, Vice Chair, or Secretary or Assistant Secretary. All action taken to date by the members of the Authority and the staff of the Authority in furtherance of the issuance of the Notes is hereby approved,

confirmed and ratified, and the members of the Authority are hereby authorized to take such additional actions as they or any of them deem necessary or appropriate in furtherance of the issuance of the Notes.

SECTION 13. REPEALING CLAUSE. All prior resolutions and motions of the Authority inconsistent with the provisions of this Resolution are hereby modified, supplemented and amended to conform with the provisions herein contained, and except as otherwise modified, supplemented and amended hereby, shall remain in full force and effect.

SECTION 14. SEVERABILITY AND INVALID PROVISIONS. If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other provisions hereof or of the Notes issued hereunder.

SECTION 15. EFFECTIVE DATE. This Resolution shall become effective immediately upon its adoption.

APPROVED AND ADOPTED this 9th day of July, 2020.

**BREVARD COUNTY HOUSING
FINANCE AUTHORITY**

(SEAL)

By: _____
Chair

ATTEST

By: _____
Secretary

EXHIBIT "A"
FUNDING LOAN AGREEMENT

EXHIBIT "B"

PROJECT LOAN AGREEMENT

EXHIBIT "C"

LAND USE RESTRICTION AGREEMENT

EXHIBIT “D”

SUBORDINATE TRUST INDENTURE

EXHIBIT “E”

SUBORDINATE LOAN AGREEMENT