BOARD OF HOUSING COMMISSIONERS
RESOLUTION NO. 2021-03

AUTHORIZING THE EXECUTION AND DELIVERY OF AN EQUIPMENT LEASE PURCHASE AGREEMENT WITH BANK OF AMERICA, NATIONAL ASSOCIATION TO UNDERTAKE AND FINANCE (AND RE-FINANCE) THE IMPLEMENTATION OF A SELF-MANAGED PUBLIC HOUSING ENERGY PERFORMANCE CONTRACT ("EPC") INCLUDING THE EXECUTION AND DELIVERY OF DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTION CONTEMPLATED BY THE RESOLUTION.

WHEREAS, the Albuquerque Housing Authority (the "*Lessee"*), a body politic and corporate duly organized and existing under the laws of the State of New Mexico, is authorized by the laws of the State of New Mexico to purchase, acquire and lease personal property for the benefit of the Lessee and its inhabitants and to enter into contracts with respect thereto;

WHEREAS, the Lessee has commenced the process to request approval for an Energy Performance Contract ("*EPC*") from the U.S. Department of Housing and Urban Development ("*HUD*") in order to reduce the costs of utilities across its public housing developments;

WHEREAS, the Lessee is required to finance its EPC, a type of Energy Conservation Measure, by providing a security interest or other encumbrance in its public housing developments and, therefore, is required to obtain written approval from HUD for such security interest or encumbrance pursuant to Section 30 of the U.S. Housing Act of 1937 ("*Section 30*");

WHEREAS, the Lessee desires to (i) finance the purchase, acquisition, and lease of certain new equipment and (ii) refinance the purchase, acquisition, and lease of certain existing equipment with a cost not to exceed Five Million and no/100 Dollars ($5,000,000.00) constituting personal property necessary for the Lessee to perform essential governmental functions of providing safe, decent, and sanitary housing to low income individuals and families in Albuquerque, New Mexico (collectively, the "*Equipment*"); and

WHEREAS, in order to acquire such equipment, the Lessee proposes to enter into (a) that certain Equipment Lease/Purchase Agreement (the "*Agreement"*) with Bank of America, National Association (or one of its affiliates, "*Lessor"*); (b) the Escrow and Account Control Agreement (the "*Escrow Agreement"*) with the Lessor and BOK Financial (or other custodian bank acceptable to Lessee and Lessor), as custodian, the form of each of which has been presented to the governing body of the Lessee at this meeting; and (c) such other agreements or documents as necessary to effectuate the transaction (with the Agreement and Escrow Agreement, the "*Transaction Documents*"); and

WHEREAS, the governing body of the Lessee deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Agreement and the Escrow Agreement and the documentation related to the financing of the Equipment on the terms and conditions therein provided;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED BY THE LESSEE'S BOARD OF HOUSING COMMISSIONERS (the "*Board"*), an act of the governing body of the Albuquerque Housing Authority, as follows:

The terms, authorizations and transactions set forth in and contemplated by this resolution are subject to the receipt by the Lessee of an approval letter from the United States Department of Housing and Urban Development ("*HUD*") with respect to the EPC project contemplated herein.

Section 1. Acquisition and Installation of the Equipment. The Lessee's Board of Housing Commissioners (the "*Board*") hereby authorizes and directs the acquisition and installation of the Equipment and provision of all security interests or encumbrances on the Equipment associated with this financing transaction, as provided in the Agreement.

Section 2. Approval of Documents. The form, terms and provisions of the Agreement and the Escrow Agreement are hereby approved in substantially the forms presented at this meeting, with such insertions, omissions and changes as shall be approved by the Executive Director of the Lessee or other members of the governing body of the Lessee executing the same, the execution of such documents being conclusive evidence of such approval; and the Executive Director of the Lessee, or her designee, is hereby authorized and directed to execute the Agreement and any related Exhibits attached thereto, the Escrow Agreement, and/or the Transaction Documents and to deliver the Agreement (including such Exhibits), the Escrow Agreement, and/or the Transaction Documents to the respective parties thereto, and the Executive Director of the Lessee, or her designee, is hereby authorized to affix the seal of the Lessee to such documents.

Section 3. Other Actions Authorized. The officers and employees of the Lessee shall take all action necessary or reasonably required by the parties to the Agreement and the Escrow Agreement to carry out, give effect to and consummate the transactions contemplated thereby (including the execution and delivery of Acceptance Certificates and any tax certificate and agreement, as contemplated in the Agreement) and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Agreement and the Escrow Agreement.

Section 4. No General Liability. Nothing contained in this Resolution, the Agreement and the Escrow Agreement nor any other instrument shall be construed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Agreement and the Escrow Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, except to the extent that the Rental Payments payable under the Agreement are special limited obligations of the Lessee as provided in the Agreement.

Section 5. Appointment of Authorized Lessee Representative. The Executive Director of the Lessee, or her designee are hereby designated to act as authorized representatives of the Lessee for purposes of the Agreement, the Escrow Agreement, and Transaction Documents until such time as the governing body of the Lessee shall designate any other or different authorized representative for purposes of the Agreement, the Escrow Agreement, and Transaction Documents. The Executive Director of the Lessee,

or her designee, are furthermore hereby authorized to sign and execute the Agreement, the Escrow Agreement, and/or Transaction Documents on behalf of the Lessee.

Section 6. Designation for Purposes of Section 265(b)(3) of the Internal Revenue Code of 1986. The governing body of the Lessee hereby designates the Agreement as a "qualified tax exempt obligation" for purposes and within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Section 7. Severability. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 8. Repealer. All bylaws, orders and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.

Section 9. Administrative Approval. The Executive Director, or her designee, are hereby authorized to prepare and transmit any documents, materials, or other items required pursuant to Section 30 or otherwise to HUD to seek and obtain such approval(s) as may be required to authorize the EPC transaction contemplated herein.

Section 10. Effective Date. This Resolution shall be effective immediately upon its approval and adoptions.

PASSED and ADOPTED this 17th Day of February 2021.
BY A VOTE OF 5 FOR, AND 0 AGAINST.

Members Absent: _____
Members voting against: _____

ALBUQUERQUE HOUSING AUTHORITY
BOARD OF HOUSING COMMISSIONERS

By: /s Rebecca Robinson
Rebecca Robinson, Chairperson of the Board

ATTEST:
/s Linda Bridge
Linda Bridge, Secretary to the Board and Executive Director