

EXHIBIT 2

RAD Conversion Commitment

**Rental Assistance Demonstration (RAD)
Conversion Commitment (Public Housing
and Section 8 Moderate Rehabilitation
(Mod Rehab) Program Conversions; First
Component)**

**U.S. Department of Housing and
Urban Development
Office of Multifamily Housing**

Property Name ("Project") and Address:	Name of either the Public Housing Agency or Mod Rehab Owner ("Owner"):	Owner Address:
Housing Authority of the City of Yuma Scattered Sites <i>Various scattered site addresses</i>	Housing Authority of the City of Yuma	Housing Authority of the City of Yuma Attn: Michael Morrissey 420 South Madison Ave. Yuma, AZ 85364

PIC Development Number or Mod Rehab Contract Number	Number of Units in PIC Development or under Mod Rehab Contract	Number of Units Converting and Included in this RAD Conversion Commitment
AZ035000001	235	235

The Secretary of Housing and Urban Development ("Secretary"), acting by and through various officials ("HUD"), offers this commitment (this "Commitment") for the above project's participation in the Rental Assistance Demonstration (RAD) Program created by the Consolidated and Further Continuing Appropriations Act of 2012, and Notice PIH-2012-32 (the "Program"). This Commitment is subject to the terms and conditions set forth below.

TERMS AND CONDITIONS:

- 1. Applicable HUD Regulations and Requirements.** With regard to any Project covered by this Commitment, "Applicable HUD Regulations and Requirements" means (1) all applicable statutes and any regulations issued by HUD pursuant thereto that apply to the Project, including all Rental Assistance Demonstration (RAD) statutes and regulations, and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and (2) all current requirements in HUD handbooks and guides, notices, and Mortgagee letters that apply to the Project, and all future updates, changes and amendments thereto, as they become effective, except that changes subject to notice and comment rulemaking shall become effective only upon completion of the rulemaking process, and provided that such future updates, changes and amendments shall be applicable to the Project only to the extent that they interpret, clarify and implement terms in the applicable closing document rather than add or delete provisions from such document.
- 2. Acceptance of Commitment/Expiration.** This Commitment shall terminate thirty (30) days from the date hereof unless the Owner executes and returns a copy of this Commitment to HUD, at the address that appears on the last page of this Commitment, to the attention of the official whose signature appears on the last page of this Commitment. The Owner may not make any alterations or modifications to this Commitment other than to execute this Commitment. If the transactions contemplated by this Commitment (collectively, the Transaction) are not closed to HUD's satisfaction within 90 days from the date this Commitment is issued, this Commitment

shall, unless extended by HUD in writing, expire and be of no further force or effect, legal or otherwise. Upon expiration, all rights and obligations of the respective parties shall cease.

In the case where, pursuant to paragraph 3, ownership of the project will be transferred, this Commitment shall also be executed by the transferred ownership entity at or prior to Closing and all requirements contained herein will apply to the new ownership entity.

3. **Closing Date.** The date upon which the binding legal instruments in the Transaction are executed and filed for record shall be called the "Closing Date." The Owner and HUD estimate that the Closing Date will be no later than **December 31, 2016** (the "Estimated Closing Date"). Attachment A hereto ("Closing Preparations") describes various conditions of closing and checklist items that must be completed before the closing can occur.
4. **HUD Approval of Project Ownership.** The Owner agrees that HUD approval of the legal entity that will own the Project following the closing of the Transaction is a condition of the Transaction.
 - a. **Ownership.**
 - ☒ The project is currently owned by the Owner, which is the intended RAD ownership entity.
 - ☐ At closing (or, in the case of Mod Rehab projects, prior to closing, if applicable), ownership of the Project will be transferred to **Not Applicable**, a **Not Applicable** organized under the state of **Not Applicable** ("Transferee"). The Owner agrees that transfer of ownership of the Project will occur at or prior to the Closing Date. At or prior to such transfer of ownership of the Project, the Owner shall assign its interest in this Commitment to Transferee, but only after receiving HUD approval of Transferee, which approval shall include, without limitation, Previous Participation approval through the Active Partners Participation Certification System (APPS) or through Form HUD-2530.
 - b. **2530 Approvals.**
 - ☐ All needed 2530 approvals have been received. All 'principals' of the proposed ownership entity (as such term is used for purposes of Form HUD-2530) have been approved by HUD.
 - ☐ All needed 2530 approvals have not been received. Prior to closing, all 'principals' of the proposed ownership entity (as such term is used for purposes of Form HUD-2530) shall have received Previous Participation approval from HUD, through the Active Partners Participation Certification System (APPS) or through Form HUD-2530.
 - c. **Proposed Organizational Documents.** To the extent a new entity was created to own the converting property, the organizational documents must be reviewed by HUD's attorneys and the form and substance of those documents must be consistent with HUD requirements.
 - ☐ HUD has approved the proposed organizational documents for the proposed ownership entity.
 - ☒ HUD has not yet approved the proposed organizational documents and such approval is a condition of closing the Transaction.
5. **Closing Documents.** The Owner shall execute or cause to be produced, as appropriate, such agreements, instruments, certificates and other documents as HUD may require to complete the Transaction (collectively, the "Closing Documents"), using forms prescribed by HUD and completed, executed, recorded and/or filed in the number of copies and in such manner as directed by HUD.
 - a. The Closing Documents shall include a specified "RAD Use Agreement", the form of which is attached to this document as Exhibit B.
 - b. The Closing Documents shall include a specified "Housing Assistance Payments Contract", the form of which is attached to this document as Exhibit C.
 - c. Source of Financing. The Closing Documents will include such documents as may be required by lenders and other parties providing funds for the Transaction, which documents shall be acceptable to HUD in HUD's sole and absolute discretion.

6. **Project Financial Condition.** Unless HUD gives written instructions otherwise, prior to the Closing Date the Owner shall take all steps necessary to ensure that:
 - a. Fire and other property insurance as required under applicable HUD requirements are and shall be maintained in full force and effect.
 - b. All ordinary and necessary operating expenses under Applicable HUD Requirements of the Project are paid through the Closing Date.
 - c. All statutory, regulatory, and HUD administrative requirements pertaining to the Project are and shall be satisfied notwithstanding the Owner's participation in the Program, except as expressly modified by this Commitment and/or the Closing Documents.

Upon request by HUD, the Owner shall certify in writing that any or all of the foregoing requirements have been met.
7. **Project Physical Condition.** Except as expressly authorized in writing by the Secretary, during the period beginning with the date of this Commitment through the Closing Date, the Owner shall continue to maintain the physical condition of the Project in accordance with all applicable HUD regulations and requirements and all applicable local codes. Upon request by HUD, the Owner shall provide a written certification, in a form satisfactory to HUD, with respect to this requirement.
8. **Expenses and Transaction Costs.** Except as otherwise set forth in this Commitment and the attachments hereto, regardless of whether the Transaction is consummated, HUD shall not be responsible for any expenses or transaction costs incurred by or at the direction of the Owner in connection with the Transaction (including fees for consultants, attorneys, environmental contractors, tax advisors and accountants; city, county and/or state taxes and/or fees; recording fees, prepayment penalties and/or premiums; costs for title insurance and title examination; surveys and appraisals).
9. **HUD Claims, Causes of Action and Demands.** Notwithstanding the execution of this Commitment by HUD or the consummation of the Transaction, HUD's obligations hereunder remain subject to, without limitation, the provisions of Notice PIH-2012-32, and any and all claims, causes of action or demands that may be asserted against the Owner (including any party related to, affiliated with, or a subsidiary of, the Owner) by or on behalf of the Secretary, HUD or others, civil or criminal, whether known or unknown, foreseen or unforeseen, asserted or unasserted, matured or not, shall remain uncompromised and not prejudiced.
10. **Tax, Financial, and Legal Consequences.** HUD has not provided, nor shall it provide, any opinions, representations, warranties, or covenants regarding any federal, state and/or local tax consequences, financial consequences, or legal consequences relative to the Transaction. The Owner and all other parties to, or affected by the Transaction are advised by HUD to consult with their own legal counsel and tax advisers with respect to all such matters. The Owner agrees that it is relying on its own independent determination regarding the tax, financial and legal matters related to this Transaction and not upon any representation made by any other party to this Transaction or any other party's agent or employee. Under no circumstances shall the reliance or performance of the Owner on matters—including but not limited to the tax, or financial or legal matters—result in obligations, duties, or liabilities for HUD.
11. **Owner Certifications.** By executing this Commitment, the Owner hereby certifies to HUD that:
 - a. The Owner provided all notices relating to the Program in the form approved by HUD, to such persons and in the manner required by the Program in compliance with applicable Program requirements promulgated by the Secretary.
 - b. The Owner continues to meet all program eligibility requirements as stipulated in PIH Notice 2012-32.
 - c. As of date of this Commitment, the Owner is not subject to, or received any notice of any debarment, suspension or other administrative proceeding or investigation, including any sanctions against a public housing agency (including, but not limited to employees, Board Members and principals), initiated by HUD, or any other federal or state government agency against such party.

- d. Prior to the Closing Date, the Owner agrees to notify HUD immediately, in writing, of any proposed or actual transfer of any ownership interests in the Project (whether or not such transfer requires HUD approval).
- e. Through the Closing Date, the Owner agrees that no such transfer shall become effective until the Secretary has issued any approval that may be required under applicable HUD requirements.

Upon the request of HUD, the Owner shall provide HUD with evidence satisfactory to HUD relating to each of the foregoing certifications.

12. **Certifications, Representations and Warranties by Owner.** Any certification, representation or warranty delivered by Owner pursuant to this Commitment shall be true and correct when given, and shall remain true and correct at all times through and including the Closing Date. In the event any such certification, representation or warranty is no longer complete or correct, and without limiting HUD's rights and remedies, the Owner shall immediately provide to HUD an updated document completing or correcting the certification, representation or warranty.
13. **Failure by Owner to Take Required Actions.** In the event that Owner fails to take any action, or deliver any information, called for under this Commitment, within the time frames contemplated under this Commitment (including any time frames provided under applicable law and regulations, and taking into account any requirements of applicable law and regulations regarding notices and opportunities to cure), HUD may (without further notice and without offering an additional opportunity to cure) declare that this Commitment is null and void and of no further force or effect.
14. **Controlling Provisions; Severability.** This Commitment is subject to all applicable law and regulations. In the event of a conflict between the terms and conditions of this Commitment and applicable law or regulations, the applicable law or regulations shall control. Should any provision of this Commitment be held by a court of law to be unenforceable, such determination shall in no way compromise the enforceability of the other provisions.
15. **Successors and Assigns.** This Commitment and its attachments are binding upon the Owner and upon Owner's successors and assigns. Unless otherwise provided herein, this Commitment may not be assigned by the Owner, in whole or in part, except upon the prior written consent of HUD.
16. **Conditions of Closing.** This Commitment shall not be effective or enforceable against HUD until all conditions stated herein have been satisfied.
17. **HUD Approvals and Decisions.** Any approval or decision of HUD pursuant to this Commitment shall be in HUD's sole and absolute discretion. No such approval or decision shall be deemed to have been made unless given in writing and executed by an authorized representative of HUD. HUD's execution of the Closing Documents shall constitute any approvals or decisions not previously given in writing.
18. **Post-Closing Corrections.** Notwithstanding anything to the contrary contained in this Commitment, Owner agrees to execute, before or after the Closing Date, such documents, amendments or modifications as HUD deems necessary or appropriate to effectuate the intent of this Commitment or to complete or consummate the Transaction, including but not limited to instruments necessary to correct this Commitment or any of the Closing Documents.
19. **Changes to This Commitment.** Amounts and other business terms identified in this Commitment are estimates, based on the information readily available at the time this Commitment is issued, and reflect an assumption that the Transaction will close on the Estimated Closing Date. In the event such estimates are later determined to be inaccurate, the parties agree to notify each other and (unless HUD determines that the Transaction is not economically and practically feasible or otherwise is unacceptable, in which case HUD may declare this Commitment null and void and of no further force and effect) execute an amendment to this Commitment reflecting the revised terms. The final amounts and other business terms shall be determined by the Closing Date and inserted into the applicable Closing Documents. The Owner's execution of the Closing Documents shall constitute the Owner's acceptance of the final

amounts and other business terms reflected therein. At or after the Closing Date, HUD will execute a Final Administrative Amendment to this Commitment, reflecting the final amounts and other business terms, and the Owner will execute such Final Administrative Amendment if HUD so requests.

20. Sources of Funds.

a. Type of Financing .

- ☒ **No commercial first mortgage.** The project will not be financed with a commercial mortgage loan.
- ☐ **Conventional First Mortgage Financing.** On the Closing Date, the Owner shall cause the Project and Transaction to be financed with a non-FHA insured mortgage loan (the "New Loan"). The terms of the New Loan shall be consistent with the terms and conditions of this Commitment, and must otherwise be acceptable to HUD as to form and substance. As a condition of closing, and not less than 40 calendar days prior to the closing, the Owner shall submit to HUD a binding commitment for the New Loan, which commitment shall be acceptable to HUD in its sole and absolute discretion.
- ☐ **FHA-Insured First Mortgage Financing.** On the Closing Date, the Owner shall cause the Project and Transaction to be financed, with a new FHA insured mortgage loan (the "New Loan"). The terms of the New Loan shall be consistent with the terms and conditions of this Commitment and the applicable HUD requirements for the New Loan. The Owner must deliver to HUD a copy of the fully executed FHA Firm Commitment for the New Loan within 40 calendar days prior to closing
- ☐ **Secondary Mortgage Financing.** On the Closing Date, the Owner shall cause the Project and Transaction to be financed with a secondary mortgage loan (the "Secondary Loan"). The terms of the Secondary Loan shall be consistent with the terms and conditions of this Commitment, and must otherwise be acceptable to HUD as to form and substance. As a condition of closing, and not less than 40 calendar days prior to the closing, the Owner shall submit to HUD a binding commitment for the Secondary Loan, which commitment shall be acceptable to HUD in its sole and absolute discretion.

b. Business Terms of the New Loan (see Exhibit E).

Note: The Mortgage or Deed of Trust securing the New Loan will be recorded after the RAD Use Agreement and will be subject to the RAD Use Agreement.

c. Other Sources of Funds.

- i. The Transaction will include such other sources of funds as are described in Exhibit D Sources and Uses of Funds. Exhibit E shall describe the key business terms of all sources of funds other than any commercial first mortgage loan described in the preceding paragraph.
- ii. Other than any commercial first mortgage loan described in the preceding paragraph, no additional debt (secured or unsecured) may be created against the Project without the prior express written consent of HUD, which consent may be given or withheld in the sole discretion of the Secretary.
- iii. Where the Transaction will include funds to be contributed by the Owner, the Owner certifies that all such funds are available and reserved for the Transaction, are irrevocable, and that the Owner has obtained all consents necessary in order for the Owner to commit such funds to the Transaction.
- iv. As a condition of closing, and not less than 40 calendar days prior to the closing, the Owner shall submit to HUD binding commitments for all funding sources, which commitments shall be acceptable to HUD in its sole and absolute discretion.

21. RAD HAP Contract. On the Closing Date, the Owner and HUD (or in the case of PHA conversions to PBVs, the voucher-administering PHA) shall enter into a Housing Assistance

Payments Contract (the "RAD HAP Contract"), the form of which is attached hereto as Exhibit C.

a. **Project Funding in Initial Year.**

- ☒ The Contract shall be funded from the effective date of the Contract through the remainder of the calendar year from public housing amounts obligated prior to the effective date of the Contract, and from any additional public housing amounts that HUD obligates in full or in part, subject to the availability of sufficient appropriations, for the remainder of the calendar year in which the Contract becomes effective. In the latter case, to the extent sufficient appropriations become available, HUD will obligate such funding and provide the Owner written notification of (i) the amount of such funding, and (ii) the approximate amount of time within the remainder of the calendar year in which the Contract becomes effective to which it will be applied. The PHA hereby certifies that it will follow instructions provided by HUD to make all such funds available for the project for the initial year, including any amounts that may be required at closing.
- ☐ For Mod Rehab Owners, the RAD PBRA or PBV contract will become effective upon the expiration of the existing Mod Rehab contract. The Owner agrees not to request or accept a Mod Rehab renewal contract if the project closes in accordance with this RCC.

b. **Conversion Type:**

- ☐ The Owner has selected Project-Based Rental Assistance (PBRA).
- ☒ The Owner has selected Project-Based Vouchers (PBV).

c. **Choice-Mobility:**

- ☒ The Owner shall provide a Choice-Mobility option as described in Notice PIH-2012-32.
- ☐ The Owner is exempt from the Choice-Mobility requirement described in Notice PIH-2012-32.

22. Section 8 Contract Rents. The RAD HAP Contract will specify monthly Section 8 contract rents as follows:

Number of Contract Units	Number of Bedrooms	Contract Rent	Utility Allowance	Gross Rent
14	1	324	111	435
55	2	428	111	539
128	3	631	111	742
33	4	723	111	834
5	5	831	111	942

23. Required Repairs (not applicable in the case of new construction). The Owner agrees to complete the Repairs described in Exhibit F in accordance the following provisions.

- a. The estimated cost of the Repairs, including contingency, shall be funded in the manner described below.
- ☐ **FHA 221(d) financing will be utilized.** Because the transaction will be financed in accordance with Section 221(d) of the National Housing Act, the Repairs shall be funded through draws on the proceeds of the New Loan.
- ☐ **223(f), FHA risk-sharing or other FHA financing will be utilized.** Because the transaction will be financed in accordance with the National Housing Act, the estimated cost of the Repairs, plus contingency, shall be deposited into a Rehabilitation Escrow. The Rehabilitation Escrow shall be held by the FHA-approved lender and shall be controlled and managed in accordance with HUD requirements applicable to the FHA program under which the New Loan will be endorsed for mortgage insurance.
- ☒ **Otherwise.** The estimated cost of the Repairs, plus contingency, shall be deposited into a Rehabilitation Escrow.
- The Rehabilitation Escrow will be held, controlled, and managed by **Housing Authority of the City of Yuma** ("Rehab Administrator").
 - The Repairs shall be administered in a commercially standard and

reasonable manner, in accordance with a written agreement ("Rehabilitation Agreement").

- In the event of owner default under the Rehabilitation Agreement, the Rehab Administrator shall notify HUD within 10 calendar days after default and shall, within 30 calendar days after default, submit an action plan to HUD. HUD reserves the right (but is not obligated), at any point during the remaining life of the rehabilitation/construction escrow agreement, to take over administration of the rehabilitation, contract for the remaining repairs, pay for completion of repairs from rehabilitation funds, place a lien on the project for any actual costs of rehabilitation and administration that exceed available funds in the escrow, and enforce the lien in the event of nonpayment.
 - The Owner and Rehab Administrator shall provide to HUD a certification, acceptable to HUD in HUD's sole and absolute discretion, that the Repairs will be managed in accordance with all applicable requirements of the Program.
- b. In carrying out the Repairs, the Owner shall comply with applicable requirements of:
- i. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and its implementing regulations at 49 CFR Part 24 with regard to any temporary relocation of residents.
 - ii. Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 24 CFR Parts 8.22 and 8.23, with regard to any "substantial alterations" defined in such regulations.
 - iii. Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 24 CFR Part 8.23, with regard to any other "alterations" as defined in such regulations.
 - iv. The design and construction requirements of the Fair Housing Amendments Act of 1988 and its implementing regulations at 24 CFR Part 100.25, with regard to housing first constructed after March 13, 1991.
 - v. Section 3 of the Housing Act of 1968 and all of the related regulations, rules and requirements for any Repairs that qualify as "construction" or "rehabilitation" as defined in such regulations, rules and requirements.
 - vi. Davis-Bacon prevailing wage requirements, section 12 of the United States Housing Act of 1937, and Contract Work Hours and Safety Standards Act, and all of the related regulations, rules and requirements for any Repairs that qualify as "construction" or "rehabilitation" as defined in such regulations, rules and requirements.
 - vii. The Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-485 6), and implementing regulations at 24 CFR part 35, as applicable
- c. Failure by the Owner to complete the Repairs in accordance with this Commitment shall constitute a breach of this Commitment.
- d. The Repairs shall be completed within 12 to 18 months following the Effective Date of the HAP Contract.
- e. Any actual costs for the Repairs in excess of funds available shall be paid by the Owner from non-project funds.
- f. The Owner shall not be entitled to earn or receive any cash flow distributions from the Project until after completion of the Repairs, inspection of the completed Repairs, certification of the actual cost of the Repairs, and written HUD acceptance of the completed Repairs.
- g. HUD's written acceptance of the completed Repairs shall constitute HUD's consent for the Owner to direct the application of any remaining repair funds.

24. **New Construction.** In the case of New Construction, the Owner agrees to complete the Construction described in Exhibit F in accordance with the following provisions:

- a. The plans and specifications for the Construction shall meet all requirements listed below:
 - i. The more stringent of the following:

1. A national building code, such as Uniform Building Code, Council of American Building Officials Code, or Building Officials Conference of America Code; or
 2. Applicable State and local laws, codes, ordinances, and regulations;
 - ii. Other Federal requirements including any Federal fire-safety requirements and HUD minimum property standards (e.g., 24 CFR part 200, subpart S for FHA-insured properties);
 - iii. The relevant requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-484 6), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-485 6), and implementing regulations at 24 CFR part 35, as applicable;
 - iv. Section 504 of the Rehabilitation Act of 1973 and its implementing regulations at 24 CFR Parts 8.22 and 8.23; and
 - v. The design and construction requirements of the Fair Housing Amendments Act of 1988 and its implementing regulations at 24 CFR Part 100.25.
- b. The estimated cost of the Construction, including contingency, shall be funded, and the Construction shall be managed, in the manner described below.
- ☐ **FHA 221(d) financing will be utilized.** Because the transaction will be financed in accordance with Section 221(d) of the National Housing Act, the Construction shall be funded through draws on the proceeds of the New Loan.
 - ☐ **Non-FHA construction financing will be utilized.** The Financing Plan must propose a financing and construction management approach that provides at least as much protection to HUD as the FHA Section 221(d) approach. The Financing Plan must also include full plans and specifications and be based on a fixed price general construction contract. The Construction shall be funded and controlled in the following manner:
 1. The Owner shall engage a qualified general contractor.
 2. The general contractor shall obtain either (i) a payment and performance bond from a properly licensed surety, which bond and surety shall be acceptable to HUD in HUD's sole and absolute discretion; or (ii) a letter of credit, acceptable to HUD in HUD's sole and absolute discretion.
 3. The Owner shall provide a completion guarantee agreement, from a creditworthy guarantor, promising to complete construction if the general contractor fails to do so, and promising to pay any costs in excess of budget, including any costs due to change orders. Such completion guaranty, and guarantor, shall be acceptable to HUD in HUD's sole and absolute discretion.
 4. The Owner shall provide to HUD a certification, acceptable to HUD in HUD's sole and absolute discretion, that the Construction will be managed in accordance with all applicable requirements of the Program.
- c. In carrying out the Construction, the Owner shall comply with applicable requirements of:
- i. The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and its implementing regulations at 49 CFR Part 24 with regard to any temporary relocation of residents.
 - ii. Section 3 of the Housing Act of 1968 and its implementing regulations at 24 CFR Part 135.
 - iii. Davis-Bacon prevailing wage requirements, section 12 of the United States Housing Act of 1937 and Contract Work Hours and Safety Standards Act, and all of the related regulations, rules and requirements.
- d. The scope of construction described in Exhibit F shall not be reduced. Any reduction in the scope of construction shall constitute a breach of this Commitment unless it has been approved by HUD.
- e. Failure by the Owner to complete the Construction in accordance with this Commitment shall constitute a breach of this Commitment.
- f. The Construction shall be completed within **Not Applicable** months following the Closing Date.

25. Critical Repairs.

- ☐ **The project has critical repairs.** Exhibit G contains a list of critical repairs. On or before

closing, the Owner will provide HUD with evidence, satisfactory to HUD in its sole and absolute discretion, that all critical repairs have been completed and paid for.

☒ **The project does not have critical repairs.**

26. **Reserve for Replacements.**

- a. The new Reserve for Replacements balance to be established at Closing (Initial Deposit to Replacement Reserves, or IDRR) is estimated to be **\$202,868.00**
- b. The initial monthly deposit to the Reserve for Replacements, to be made from project rental income, and to be effective after the Closing Date, and subject to annual increases as required by HUD, is estimated to be **\$12,083.00.**

27. **Owner's Counsel.** The Owner agrees to select counsel to represent the Owner in connection with this Transaction, which counsel shall not, in HUD's sole and absolute discretion, have a conflict of interest, defined as a situation in which the proposed counsel (a) has a financial interest in the Project, or in the provision of goods or services (including financing) to the Project; or (b) has one or more personal, business, or financial interests or relationships which would cause a reasonable person with knowledge of the relevant facts to question the integrity or impartiality of the proposed counsel.

28. **Additional Special Terms and Conditions (as applicable).**

- ☐ **Green Certification.** Owner has elected to pursue certification of **Not Applicable** as a condition of its participation in the Program. The Owner shall not be entitled to earn its final Development Fee draw until after HUD has concurred in writing that such Green certification has been achieved.
- ☐ **Modification of Existing Junior Debt.** Within 30 days of execution of this Commitment, the Owner agrees to provide to HUD a true and correct copy of all notes, riders, allonges, security instruments and other documents evidencing that certain loan owed by Owner to **Not Applicable**, dated **Not Applicable**, and in the original principal amount of **Not Applicable**. Owner acknowledges that the Closing Date shall not be scheduled until such time as Owner has demonstrated that such loan has been satisfied (from non-project funds) or has demonstrated, to HUD's satisfaction, in HUD's sole discretion, that Owner and the lender have modified (or agreed to modify at or prior to the Closing Date) such loan in a manner satisfactory to HUD in its sole and absolute discretion.
- ☒ Other special conditions (explain):
 - a. PIH provide approval and certification of non-dwelling units
 - b. PIH/PHA completion of the PIC removal process.

29. **Exhibits.** The following exhibits are a part of this Commitment, as follows:

- a. Closing Preparations
- b. Form of RAD Use Agreement.
- c. Form of RAD HAP Contract.
- d. Sources and Uses of Funds
- e. Key Business Terms
- f. List of Repairs or Description of New Construction
- g. List of Critical Repairs
- h. Form A of Owner Certification Re: Accounts Payable and Form B of Owner Certification Re: Accounts Payable
- i. Excess Obligations Approved for Payment as Transaction Costs and Excess Obligations to be Satisfied Prior to the Closing Date

30. **Entire Agreement; Survival.** All prior and contemporaneous oral and written communications are merged herein and superseded hereby, and this Commitment and all exhibits attached constitute the entire agreement between the Owner and HUD with respect to the Transaction. This Commitment shall survive Closing of the Transaction.

31. **Binding Effect.** The binding effect and implementation of this Commitment is not contingent in any way upon the provision by Congress of any funds. Owner acknowledges that Congress is not obligated to appropriate any funds to satisfy this Commitment

32. **Consistency with Federal Law.** Nothing contained in this Commitment shall impose on HUD any duty, obligation, or requirement, the performance of which would be inconsistent with federal statutes, rules, or regulations in effect at the time of such performance

This Commitment shall be binding upon the parties hereto and their successor and assigns.

I certify under penalty of perjury that the foregoing is true and correct.

Signature Page

Department of Housing and Urban Development

By: 

Name: Thomas R. Davis

Title: Director, Office of Recapitalization

Date:  10/7/2016

ACCEPTED AND AGREED TO:

☒ Owner: The City of Yuma

By: _____

Name: Greg Wilkinson

Title: City Administrator

Date: _____

☐ Transferee: [Click here to enter text.](#)

By: _____

Name: _____

Title: _____

Date: _____

Return the signed RAD Conversion Commitment to:

Beverly N. Rudman
RAD Closing Manager
U.S. Department of HUD
451 7th Street SW, Room 6222
Washington, DC 20410
Beverly.n.rudman@hud.gov
202-402-8395

EXHIBIT A
Closing Preparations

1. HUD Approval of Project Ownership.

- a. HUD Previous Participation approval of all 'principals' is a condition of closing.
- b. HUD approval of proposed organizational documents of the project owner is a condition of closing.
- c. Note: unless paragraph 3 of the RAD Conversion Commitment permits transfer of the project, no transfer of the project may take place prior to closing.
- d. Note: no change of 'principals' may occur (either before or after the closing) without HUD's prior written approval.
- e. Note: no change to the proposed organizational documents may occur without HUD's prior written approval.

2. Availability of Public Housing Funds.

The Contract shall be funded from the effective date of the Contract through the remainder of the calendar year from public housing amounts obligated prior to the effective date of the Contract, and from any additional public housing amounts that HUD obligates in full or in part, subject to the availability of sufficient appropriations, for the remainder of the calendar year in which the Contract becomes effective. In the latter case, to the extent sufficient appropriations become available, HUD will obligate such funding and provide the Owner written notification of (i) the amount of such funding, and (ii) the approximate amount of time within the remainder of the calendar year in which the Contract becomes effective to which it will be applied. The PHA hereby certifies that it will follow instructions provided by HUD to make all such funds available for the project for the initial year, including any amounts that may be required at closing.

3. Sources and Uses of Funds.

- a. On the Closing Date, the Owner shall prepare and certify to HUD, a final Sources and Uses of Funds Statement. This statement must be in the form of Exhibit D, the preliminary Sources and Uses of Funds Statement, attached. Note: if there will be construction financing, both construction and permanent Sources and Uses statements should be submitted.
- b. The final Sources and Uses of Funds Statement must reflect all of the final elements of the Transaction and must further demonstrate the following:
 - i. no disbursement of funds have been made to the Owner, except as otherwise expressly identified on the final Sources and Uses of Funds Statement and approved by HUD in writing; and
 - ii. no disbursements of funds have been made to any of the principals or affiliates of the Owner, except as otherwise expressly identified on the final Sources and Uses of Funds Statement and approved by HUD in writing; and
 - iii. no disbursements of funds have been made to any other party, except as otherwise expressly identified on the final Sources and Uses of Funds Statement and approved by HUD in writing.

4. Restrictions on New Junior Debt. If the Financing Plan includes new junior debt, the following requirements are applicable. If the Owner is considering adding new junior debt, prior written HUD approval is required (to document a change to the Financing Plan), and the following requirements will be applicable.

- a. For PHAs, any new debt must be expressly subject to the RAD Use Agreement.
- b. If the transaction involves FHA-insured financing, the proposed new junior debt must be unsecured, payable only from positive annual audited surplus cash, and must have a maturity date equal to or greater than the expiration date of the RAD Use Agreement.
- c. For PHAs, if there is no FHA-insured financing, the senior lender must submit a request to HUD to allow new junior debt, the request must specify that the proposed new junior debt shall be subject to the RAD Use Agreement, the request must include the consent of both the senior lender and the proposed junior lender, and the request must discuss whether the proposed new junior debt will be secured (and if so the lien position that is

acceptable to both lenders), the repayment provisions that are acceptable to the both lenders, and the maturity date that is acceptable to both lenders.

5. Closing Documents.

- a. Execution of the RAD Use Agreement (for PHAs only).
 - i. The RAD Use Agreement shall be recorded in the land records for the jurisdiction in which the Project is located.
 - ii. The RAD Use Agreement shall be superior to the lien and/or encumbrance evidenced by any and all mortgages, deeds of trust and other financing documents and regulatory documents related to the Project (including any LIHTC use agreement).
 - iii. The Owner shall obtain such consents, and have such documents executed, as HUD may determine necessary to establish such priority. At a minimum, the note / loan agreement of each secured lender must acknowledge the RAD Use Agreement and must acknowledge that its mortgage lien is subject to the RAD Use Agreement.
- b. Execution of the RAD HAP Contract (for PBRA or PBV, as applicable).
- c. Bond Financing (as applicable).
 - i. The Owner must submit documentation that issuance of the bonds has been authorized.
 - ii. The owner must submit the firm commitment to purchase the bonds.
- d. Low-income Housing Tax Credits (LIHTC) Equity (as applicable).
 - i. The pay-in schedule must be included in the equity commitment.
 - ii. The pay-in schedule must be acceptable to HUD.
 - iii. The first equity installment must be funded into the closing escrow.
 - iv. The Owner must submit the LIHTC reservation letter (from the state allocating agency) as well as the equity commitment letter (from the investor).
- e. Form HUD-92458 Rental Schedule, approved by HUD. (as applicable)
- f. Property Management Agreement and Certification. (as applicable)
 - i. The Owner shall provide a contract for competent management of the Project, by and between the Owner and approved property management firm, the form and sufficiency of which must be satisfactory to HUD.
 - ii. Such contract shall be consistent with the HUD-approved Financing Plan and with this Commitment.
 - iii. HUD approval of a properly executed Management Certification (Form HUD-9839), to take effect at the Closing Date, consistent with such contract, shall be a condition of closing.
 - iv. The Management Certification must reflect a residential property management fee in a percentage that does not exceed the percentage noted in the approved Financing Plan and that is acceptable to the Multifamily Field Office with jurisdiction for the Project.
 - v. If the property has commercial income. The Management Certification must reflect a commercial property management fee that does not exceed the percentage noted in the approved Financing Plan and that is acceptable to the Multifamily Field Office with jurisdiction for the Project.
- g. Fidelity Bond. (as applicable) As a condition of closing, the Owner will submit to HUD evidence that the property management agent has a fidelity bond in an amount equal to at least two months' potential rent collections for the Project, which bond shall be from a surety and in a form acceptable to HUD, and which bond names the lender of the New Loan, and HUD, as additional loss payees.
- h. Consents. HUD's receipt, on or before the Closing Date, of written evidence, in a form satisfactory to HUD, that the Owner has received any and all consents required in order to consummate the Transaction. This may include the consent of any party whose consent is required pursuant to the Owner's organizational documents or applicable law, and any other parties that have contracts or agreements that may be modified, breached, or terminated as a result of the Transaction. The Owner shall be obligated to obtain these consents at its own cost and expense.
- i. Other. Any other documents necessary to implement the Transaction.

6. Accounts Payable.

- a. If the Owner submitted Form A (no payables), the following requirements are applicable.
 - i. The Owner submitted a certification titled "Form A Owner Certification Re: Accounts Payable" (the "Certification") to HUD, containing representations and warranties with respect to the financial condition of the Project. The Owner acknowledges that HUD has relied upon the Certification as a basis for the issuance of this Commitment. The Owner represents and warrants that the Certification remains true and correct as of date the Owner executed this Commitment.
 - ii. Prior to the Closing Date, at the request of HUD, the Owner shall reaffirm the truth and accuracy of the Certification ("Final Certification"), upon which the PAE and HUD shall rely for the purposes of the Transaction. Any deviation that arises between the Certification and the Final Certification is subject to the review and approval of HUD as a condition of closing of the Transaction.
- b. If the Owner submitted Form B, the following requirements are applicable.
 - i. The Owner submitted a certification titled "Form B Owner Certification Re: Accounts Payable" (the "Certification") to HUD containing four (4) attachments. Generally, Attachment A to the Certification was a list of Accounts Payable, Attachment B was a list of all Other Project Liabilities, Attachment C was a list of the balances in all cash accounts, and Attachment D disclosed all other sources of funds of the Project for the satisfaction of the Accounts Payable and Other Project Liabilities. The Certification defines or characterizes in detail the items contained in each attachment. The Owner acknowledges that HUD has relied upon the Certification as a basis for the issuance of this Commitment. The Owner represents and warrants that the Certification remains true and correct as of date the Owner executed this Commitment.
 - ii. Items on Attachments A and B of the Certification were compared against items on Attachments C and D of the Certification to determine if there are obligations that exceed available assets ("Excess Obligations"). Excess Obligations that will be paid as costs of the Transaction, if any, are listed on Exhibit C-1 to this Commitment. Any remaining Excess Obligations, if any, are listed on Exhibit C-2 to this Commitment, and shall be paid by the Owner as a condition of closing of the Transaction, without utilization of any assets of, or any assets secured by a lien on, the Project.
 - iii. The Owner's Form B accounts payable certification must be updated, prior to closing, to establish the final payables to be cleared as transaction costs. HUD and the owner will select the most appropriate date for the Final Certification. Prior to the Closing Date, as of a date that is acceptable to HUD, the Owner shall update and revise the Certification ("Final Certification"), upon which HUD shall rely for the purposes of the Transaction. Any deviation that arises between the Certification and the Final Certification is subject to the review and approval of HUD as a condition of closing of the Transaction. HUD will revise Exhibits C-1 and C-2 to this Commitment based upon the Final Certification and based upon the Secretary's review of the Final Certification.
 - iv. Closing cannot be scheduled until the owner has cleared the payables listed on Exhibit C-2 and provided acceptable documentation of payment (from non-project funds) to HUD and to the closing escrow agent. The Owner shall provide information sufficient to ensure proper payment of the Excess Obligations listed on Exhibit C-1, on the Closing Date, by the closing escrow agent. Prior to the Closing Date, the Owner shall provide evidence satisfactory to HUD that the Excess Obligations listed on Exhibit C-2 have been paid in full (or otherwise satisfied) by the Owner, without utilization of any assets of, or any assets secured by a lien on, the Project.

- 7. **Opinion of Owner's Counsel.** Owner's counsel must give an opinion, unless an opinion from another counsel is approved by the HUD Closing Attorney, specifically supplementing the opinion given by Owner's counsel at the closing. HUD's obligations under the Commitment are conditioned further upon its receipt from the Owner's Counsel (including local counsel, as applicable), on or before the Closing Date, of a legal opinion in a form prescribed by HUD which

states the following:

- a. the Owner is duly organized and validly existing under the laws of the applicable jurisdiction(s);
- b. the Owner has the requisite power and authority to consummate the Transaction;
- c. the Owner has secured all consents that are required to consummate the Transaction;
- d. each of the Closing Documents executed by or on behalf of the Owner in connection with the Transaction is a legally binding obligation of such party, enforceable in accordance with its terms;
- e. there is no litigation or other claim pending or threatened against the Owner or the Project other than as disclosed therein;
- f. for PHAs, the RAD Use Agreement is superior to the lien and/or encumbrance evidenced by any and all mortgages, deeds of trust and other financing documents and regulatory documents of record relating to the Project;
- g. the Owner's counsel will provide, upon request by HUD, a dispositive legal opinion on any additional matter HUD considers pertinent to this Transaction; and
- h. that the documents are in accordance with Applicable HUD Regulations and Requirements.

8. **Existing Loans That Will Survive the Closing.** If the Financing Plan provides for any existing loan to survive the closing, the following requirements will be applicable. If the Owner is considering a change to allow an existing loan to remain after closing, prior written HUD approval is required (to document a change to the approved Financing Plan), and the following requirements will be applicable.

- a. Any existing loans to Owner from any party (including, without limitation, affiliates of Owner), that are to remain outstanding after the Closing Date hereunder (collectively, the "Existing Loans"), shall be subordinated in all respects to the lien, payment and priority of the RAD Use Agreement, the New Loan if any, and all associated Mortgages, Deeds of Trust and other security instruments.
- b. No Existing Loan shall be secured by the Project or any interest therein or related thereto after the Closing Date, unless HUD gives its permission in writing.
- c. No Existing Loan shall be payable during the Use Restriction Period, except to the extent that they may be repayable solely from Surplus Cash, as defined by the Secretary, distributable and distributed to the Owner under and subject to all applicable HUD rules, regulations, guidelines and/or requirements, unless HUD gives its permission in writing.
- d. On or before the Closing Date, Owner and the holders of any Existing Loans (that will not be paid off or otherwise satisfied at or prior to the Closing Date) shall acknowledge the foregoing and execute and deliver one or more subordination agreements satisfactory to HUD in HUD's sole and absolute discretion.

9. **Removal of Units from PIC (for PHAs only).**

PHAs must follow instructions provided by HUD to remove the project, or portions thereof, from PIC to effect conversion.

10. **Submission of Budget Revision.**

This submission is to satisfy paragraph 20(a) of the RAD Conversion Commitment, and must be completed in a manner acceptable to HUD.

11. **Additional Certifications That HUD May Request.**

- a. Certification of project financial condition (see paragraph 5).
- b. Certification of project physical condition (see paragraph 6).

EXHIBIT B

Form of RAD Use Agreement

Rental Assistance Demonstration Use Agreement

U.S. Department of Housing
and Urban Development
Office of Housing
Office of Public and Indian Housing

OMB Approval No. 2577-0276 (Exp. 02/29/16)

Public reporting burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Reports Management Officer, Paperwork Reduction Project (2577-0276), Office of Information Technology, U.S. Department of Housing and Urban Development, Washington, D.C. 20410-3600. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This Rental Assistance Demonstration Use Agreement (hereinafter called the "Agreement") made the _____ day of _____, 20____, by and between the United States of America, Secretary of Housing and Urban Development (hereinafter called "HUD") and _____, Owner, (hereinafter called the "Owner"), provides as follows:

Whereas, Rental Assistance Demonstration (hereinafter called "RAD") provides the opportunity to test the conversion of public housing and other HUD-assisted properties to long-term, project-based Section 8 rental assistance to achieve certain goals, including the preservation and improvement of these properties through access by Owners to private debt and equity to address immediate and long-term capital needs.

Whereas, Projects funded under the public housing programs may under RAD convert their assistance to long-term, project-based Section 8 rental assistance contracts. Under this component of RAD, Owners may choose between two forms of Section 8 Housing Assistance Payment (HAP) contracts: project-based vouchers (PBVs) or project-based rental assistance (PBRA). No incremental funds are authorized for this component. Owners will convert their assistance at current subsidy levels.

Whereas, Projects shall have a RAD Use Agreement that will be recorded superior to other liens on the property, run for the same term as the initial term of the HAP contract, automatically renew upon each extension or renewal of the HAP contract for a term that runs with each renewal term of the HAP contract, and remain in effect even in the case of abatement or termination of the HAP contract (for the term the HAP contract would have run, absent the abatement or termination).

Whereas, HUD has approved the conversion of the "Project" identified as _____ and covering real property as described in Exhibit "A" attached hereto; and that this approval is evidenced by and through the terms of the RAD Conversion Commitment as described in Exhibit "B" attached hereto; and that was previously subject to a public housing Declaration of Trust dated _____ and recorded on _____ in the Recorder's Office of _____ County as document number _____, Book _____, Page _____; and such public housing Declaration of Trust was released on (date) _____ and recorded on (date) _____ in the Recorder's Office of _____ County as document number _____, Book _____, Page _____

Whereas, pursuant to the Consolidated and Further Continuing Appropriations Act of 2012 (Public Law 112-55, approved November 18, 2011) and the corresponding PIH Notice 2012-32 published on July 26, 2012 (hereinafter called the "RAD Notice"), which this Use Agreement incorporates, in exchange for HUD's agreement to permit this conversion to PBVs or PBRA, the Owner has agreed to continue to operate the assisted PBV or PBRA units only as rental housing for the initial term, and each renewal term of the HAP Contract, unless otherwise approved by HUD;

Now Therefore, in consideration of the mutual promises set forth herein and of other valuable consideration, the parties hereby agree as follows:

1. **Definitions.** All terms used in this Agreement have the same meaning as set forth in the definitions in RAD Notice.
2. **Term.** The initial term shall be _____. Unless otherwise approved by HUD, this Agreement shall remain in effect through the initial term, and for an additional period to coincide with any renewal term of the HAP Contract. This Agreement will survive HAP abatement or termination of the HAP Contract unless otherwise approved by HUD.
3. **Use Restriction and Tenant Incomes.** The HAP-assisted units within this Project shall be used solely as rental housing for tenants meeting the eligibility and income-targeting requirements under the HAP Contract. In the case that the HAP Contract is terminated (due to, e.g., breach, or non-compliance), new tenants must have incomes at or below 80 percent of the average median income (AMI) at the time of admission for the remainder of the term of the Agreement, applicable to all units previously covered under the HAP contract. Additionally, rents must not exceed 30% of 80% of median income for an appropriate sized unit. Notwithstanding the foregoing, in the event the Owner is able to demonstrate to HUD's satisfaction that despite the Owner's good faith and diligent efforts to do so, the Owner is unable either (1) to rent a sufficient percentage of Units to Low Income Tenants or Very Low Income Tenants in order to satisfy the restrictions in this paragraph, or (2) to otherwise provide for the financial viability of the Project, HUD may, in its sole discretion, agree to reduce the percentage of units subject to the restriction under this paragraph or otherwise modify this restriction in a manner acceptable to the Owner and HUD. Any such modification of the restrictions listed in this paragraph shall be evidenced by a

written amendment to this Agreement executed by each of the parties hereto.

4. **Subordination.** Any mortgage liens will be subject to this Agreement. This Agreement will survive foreclosure and bankruptcy.
5. **Fair Housing and Civil Rights Requirements.** Compliance with all applicable fair housing and civil rights requirements including the obligation to affirmatively further fair housing and the site selection and neighborhood standards requirements set forth in 24 CFR §§ 1.4(b)(3) and 941.202, as applicable, is required.
6. **Federal Accessibility Requirements.** Compliance with all applicable federal accessibility requirements under the Fair Housing Act and implementing regulations at 24 CFR Part 100, Section 504 of the Rehabilitation Act of 1973 and implementing regulations at 24 CFR Part 8, and Titles II and III of the Americans with Disabilities Act and implementing regulations at 28 CFR Parts 35 and 36, respectively, is required.
7. **Transfer of the Agreement.** HUD has been granted and is possessed of an interest in the above described Project such that the Owner shall remain seized of the title to said Project and refrain from transferring, conveying, encumbering or permitting or suffering any transfer, conveyance, assignment, lease, mortgage, pledge or other encumbrance of said Project or any part thereof without the release of said covenants by HUD. The Owner has constituted HUD as its attorney-in-fact to transfer PBV or PBRA assistance to another entity in the event of default under the HAP Contract. With HUD approval, after 10 years from the effective date of the initial term of the HAP Contract, if the Project is economically non-viable or physically obsolete, assistance may be transferred subject to this Agreement. Any such new Owner shall assume the obligations under this Agreement as a condition of any transfer. This Agreement shall be binding upon the Owners and all future successors and assigns until released by HUD.
8. **Release.** The endorsement by a duly authorized officer of HUD (1) upon any conveyance or transfer made by the Owner of any real or personal property which is determined to be excess to the needs of the Project, or (2) upon any instrument of conveyance or dedication of property, or any interest therein, for use as streets, alleys, or other public rights-of-way, or for the establishment, operation and maintenance of public utilities, or (3) upon any instrument transferring or conveying an interest therein, or (4) upon any instrument of release made by the Owner of the assisted PBV or PBRA units shall be effective to release such property from the restrictive covenants hereby created.
9. **Enforcement.** In the event of a breach or threatened breach of any of the provisions of this Agreement, any eligible tenant or applicant for occupancy within the Project, or the Secretary or his or her successors or delegates, may institute proper legal action to enforce performance of such provisions, to enjoin any acts in violation of such provisions, to recover whatever damages can be proven, and/or to obtain whatever other relief may be appropriate.
10. **Severability.** The invalidity, in whole or in part, of any of the provisions set forth in this Agreement shall not affect or invalidate any remaining provisions.
11. **Impairment of HAP Contract.** The terms and provisions of this Agreement shall continue in full force and effect except as expressly modified herein. Any conflicts between this Agreement and the HAP Contract shall be conclusively resolved by the Secretary.
12. **Execution of Other Agreements.** The Owner agrees that it has not and will not execute any other agreement with provisions contradictory of, or in opposition to, the provisions of this Agreement, and that in any event, the provisions of this Agreement are paramount and controlling as to the rights and obligations set forth and supersede any other conflicting requirements.
13. **Subsequent Statutory Amendments.** If revisions to the provisions of this Agreement are necessitated by subsequent statutory amendments, the Owner agrees to execute modifications to this Agreement that are needed to conform to the statutory amendments. In the alternative, at HUD's option, HUD may implement any such statutory amendment through rulemaking.
14. **No Negotiation.** This Agreement is not subject to negotiation by the Owner or any lender.

In Witness Whereof, HUD and the Owner thereunto duly authorized has caused these presents to be signed in its name and its corporate seal to be hereunto affixed and attested this _____ day of _____, 20____.

(Seal)

HUD Attest:

By:

Title:

Date:

State or)
County of) SS:
_____)

Before me, _____, a Notary Public in and for said State,
on this _____ day of _____, 20____,
personally appeared _____,
who is personally well known to me to be the _____, of HUD, and the person who
executed the foregoing instrument by virtue of the authority vested in him by, and I having first made known to him the contents
thereof, he did acknowledge the signing thereof to be a free and voluntary act and done on behalf of the Secretary of Housing and
Urban Development for the uses, purposes and considerations therein set forth.

Witness my hand and official seal this _____ day of _____, 20____.
(Seal)

(Notary Public)

My commission expires _____, 20____.

Owner Attest:

By:

Title:

Date:

State or)
County of) ss:
)

On this _____ day of _____, 20 _____, before me residing therein, duly commissioned and sworn, personally appeared _____, a Notary Public in and for said county and State, proved to me on the basis of satisfactory evidence to be the Owner of _____, that executed the within instrument and acknowledged to me that such _____ executed the same.

In Witness Whereof, I have hereunto set my hand and affixed my official seal the day and year in this Certificate first above written.
(Seal)

(Notary Public)

My commission expires _____, 20 _____.

EXHIBIT A – Property Subject to this RAD Use Agreement

EXHIBIT B – RAD Conversion Commitment

EXHIBIT C
Form of RAD HAP Contract

OMB Approval No. 2577-0169
(exp. 04/30/2014)

**U.S. Department Of Housing and Urban Development
Office of Public and Indian Housing**

SECTION 8 PROJECT-BASED VOUCHER PROGRAM

**PBV HOUSING ASSISTANCE PAYMENTS CONTRACT
NEW CONSTRUCTION OR REHABILITATION**

PART 1 OF HAP CONTRACT

This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number. Assurances of confidentiality are not provided under this collection.

1. CONTRACT INFORMATION

a. Parties

This housing assistance payments (HAP) contract is entered into between:

_____ (PHA) and

_____ (owner).

b. Contents of contract

The HAP contract consists of Part 1, Part 2 and the contract exhibits listed in paragraph c.

c. Contract exhibits

The HAP contract includes the following exhibits:

EXHIBIT A: TOTAL NUMBER OF UNITS IN PROJECT COVERED BY THIS HAP CONTRACT; INITIAL RENT TO OWNER; AND THE NUMBER AND DESCRIPTION OF THE CONTRACT UNITS. (See 24 CFR 983.203 for required items.) If this is a multi-stage project, this exhibit must include a description of the units in each completed phase.

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HAP Contract for New Construction or Rehabilitation**

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EXHIBIT B: SERVICES, MAINTENANCE AND EQUIPMENT TO BE PROVIDED BY THE OWNER WITHOUT CHARGES IN ADDITION TO RENT TO OWNER

EXHIBIT C: UTILITIES AVAILABLE IN THE CONTRACT UNITS, INCLUDING A LISTING OF UTILITIY SERVICES TO BE PAID BY THE OWNER (WITHOUT CHARGES IN ADDITION TO RENT TO OWNER) AND UTILITIES TO BE PAID BY THE TENANTS

EXHIBIT D: FEATURES PROVIDED TO COMPLY WITH PROGRAM ACCESSIBILITY FEATURES OF SECTION 504 OF THE REHABILITATION ACT OF 1973

ADDITIONAL EXHIBITS

d. Single-Stage and Multi-Stage Contracts (Check the applicable box.)

1. ☐ **Single-Stage Project**

This is a single-stage project.

For all contract units, the effective date of the HAP contract is:

_____.

The PHA enters the effective date, and executes the HAP contract, after completion and PHA acceptance of all units in the single stage project.

2. ☐ **Multi-Stage Project**

This is a multi-stage project. The units in each completed stage are designated in Exhibit A.

The PHA enters the effective date for each stage after completion and PHA acceptance of all units in that stage. The PHA enters the effective date for each stage in the "Execution of HAP contract for contract units completed in stages" (starting on page 8).

The annual anniversary date of the HAP contract for all contract units in this multi-stage project is the anniversary of the effective date of the HAP contract for the contract units included in the first stage. The expiration date of the HAP contract for all of the contract units completed in stages must be concurrent with the end of the HAP contract term for the units included in the first stage. (See 24 CFR 983.206(c).)

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e. Term of the HAP contract

1. Beginning of Term

The PHA may not enter into a HAP contract for any contract unit until the PHA has determined that the unit complies with the housing quality standards. The term of the HAP contract for any unit begins on the effective date of the HAP contract.

2. Length of initial term

- a. Subject to paragraph 2.b, the initial term of the HAP contract for any contract units is:
_____.
- b. The initial term of the HAP contract for any unit may not be less than one year, nor more than fifteen years.

3. Extension of term

The PHA and owner may agree to enter into an extension of the HAP contract at the time of initial HAP contract execution or any time prior to expiration of the contract. Any extension, including the term of such extension, must be in accordance with HUD requirements.

A PHA must determine that any extension is appropriate to achieve long-term affordability of the housing or expand housing opportunities.

4. Requirement for sufficient appropriated funding

- a. The length of the initial term and any extension term shall be subject to availability, as determined by HUD, or by the PHA in accordance with HUD requirements, of sufficient appropriated funding (budget authority), as provided in appropriations acts and in the PHA's annual contributions contract (ACC) with HUD, to make full payment of housing assistance payments due to the owner for any contract year in accordance with the HAP contract.
- b. The availability of sufficient funding must be determined by HUD or by the PHA in accordance with HUD requirements. If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units and for the full term of the HAP contract, the PHA has the right to terminate the HAP contract by notice to the owner for all or any of the contract units. Such action by the PHA shall be implemented in accordance with HUD requirements.

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HAP Contract for New Construction or Rehabilitation**

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f. Occupancy and payment

1. Payment for occupied unit

During the term of the HAP contract, the PHA shall make housing assistance payments to the owner for the months during which a contract unit is leased to and occupied by an eligible family. If an assisted family moves out of a contract unit, the owner may keep the housing assistance payment for the calendar month when the family moves out ("move-out month"). However, the owner may not keep the payment if the PHA determines that the vacancy is the owner's fault.

2. Vacancy payment

THE PHA HAS DISCRETION WHETHER TO INCLUDE THE VACANCY PAYMENT PROVISION (PARAGRAPH f.2), OR TO STRIKE THIS PROVISION FROM THE HAP CONTRACT FORM.

- a. If an assisted family moves out of a contract unit, the PHA may provide vacancy payments to the owner for a PHA-determined vacancy period extending from the beginning of the first calendar month after the move-out month for a period not exceeding two full months following the move-out month.
- b. The vacancy payment to the owner for each month of the maximum two-month period will be determined by the PHA, and cannot exceed the monthly rent to owner under the assisted lease, minus any portion of the rental payment received by the owner (including amounts available from the tenant's security deposit). Any vacancy payment may only cover the period the unit remains vacant.
- c. The PHA may only make vacancy payments to the owner if:
 1. The owner gives the PHA prompt, written notice certifying that the family has vacated the unit and the date when the family moved out (to the best of the owner's knowledge and belief);
 2. The owner certifies that the vacancy is not the fault of the owner and that the unit was vacant during the period for which payment is claimed;
 3. The owner certifies that it has taken every reasonable action to minimize the likelihood and length of vacancy; and

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4. The owner provides any additional information required and requested by the PHA to verify that the owner is entitled to the vacancy payment.
- d. The PHA must take every reasonable action to minimize the likelihood and length of vacancy.
- e. The owner may refer families to the PHA, and recommend selection of such families from the PHA waiting list for occupancy of vacant units.
- f. The owner must submit a request for vacancy payments in the form and manner required by the PHA and must provide any information or substantiation required by the PHA to determine the amount of any vacancy payments.
3. **PHA is not responsible for family damage or debt to owner**

Except as provided in this paragraph f (Occupancy and Payment), the PHA will not make any other payment to the owner under the HAP contract. The PHA will not make any payment to owner for any damages to the unit, or for any other amounts owed by a family under the family's lease.

g. Income-mixing requirement

1. Except as provided in paragraphs g.2 and 3, the PHA will not make housing assistance payments under the HAP contract for more than 25 percent of the total number of dwelling units (assisted or unassisted) in any project. The term "project" means a single building, multiple contiguous buildings, or multiple buildings on contiguous parcels of land assisted under this HAP contract.
2. The limitation in paragraph g.1 does not apply to single-family buildings.
3. In referring eligible families to the owner for admission to the number of contract units in any project exceeding the 25 percent limitation under paragraph g.1, the PHA shall give preference to elderly or disabled families, or to families receiving supportive services, for the number of contract units designated for occupancy by such families. The owner shall rent the designated number of contract units to such families referred by the PHA from the PHA waiting list.
4. The PHA and owner must comply with all HUD requirements regarding income mixing.

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5. The following specifies the number of contract units (if any):
- a. Designated for occupancy by disabled families;
 - b. Designated for occupancy by elderly families;
 - c. Designated for occupancy by elderly or disabled families; or
 - d. Designated for occupancy by families receiving supportive services.

☐ Check this box if any contract units are designated for disabled families.

The following number of contract units shall be rented to disabled families: _____.

☐ Check this box if any contract units are designated for elderly families.

The following number of contract units shall be rented to elderly families: _____.

☐ Check this box if any contract units are designated for elderly or disabled families.

The following number of contract units shall be rented to elderly or disabled families: _____.

☐ Check this box if any contract units are designated for families receiving supportive services.

The following number of contract units shall be rented to families receiving supportive services: _____.

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**Project-based Voucher Program
HAP Contract for New Construction or Rehabilitation**

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EXECUTION OF HAP CONTRACT FOR SINGLE-STAGE PROJECT

PUBLIC HOUSING AGENCY (PHA)
Name of PHA (Print)
By:
Signature of authorized representative
Name and official title (Print)
Date
OWNER
Name of Owner (Print)
By:
Signature of authorized representative
Name and title (Print)
Date

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HAP Contract for New Construction or Rehabilitation

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**EXECUTION OF HAP CONTRACT FOR CONTRACT UNITS COMPLETED AND
ACCEPTED IN STAGES**

(For multi-stage projects, at acceptance of each stage, the PHA and the owner sign the HAP contract execution for the completed stage.)

STAGE NO. 1. The Contract is hereby executed for the contract units in this stage.
STAGE EFFECTIVE DATE. The effective date of the Contract for this stage is:
PUBLIC HOUSING AGENCY (PHA) Name of PHA (Print)
By:
Signature of authorized representative
Name and official title (Print)
Date
OWNER Name of Owner (Print)
By:
Signature of authorized representative
Name and title (Print)
Date

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STAGE NO. 2. The Contract is hereby executed for the contract units in this stage.
STAGE EFFECTIVE DATE. The effective date of the Contract for this stage is:
PUBLIC HOUSING AGENCY (PHA) Name of PHA (Print)
By:
Signature of authorized representative
Name and official title (Print)
Date
OWNER Name of Owner (Print)
By:
Signature of authorized representative
Name and title (Print)
Date

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STAGE NO. 3. The Contract is hereby executed for the contract units in this stage.
STAGE EFFECTIVE DATE. The effective date of the Contract for this stage is:
PUBLIC HOUSING AGENCY (PHA) Name of PHA (Print)
By:
Signature of authorized representative
Name and official title (Print)
Date
OWNER Name of Owner (Print)
By:
Signature of authorized representative
Name and title (Print)
Date

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STAGE NO. _____	The Contract is hereby executed for the contract units in this stage.
STAGE EFFECTIVE DATE. The effective date of the Contract for this stage is:	
PUBLIC HOUSING AGENCY (PHA) Name of PHA (Print)	
By:	
Signature of authorized representative	
Name and official title (Print)	
Date	
OWNER Name of Owner (Print)	
By:	
Signature of authorized representative	
Name and title (Print)	
Date	

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U.S. Department Of Housing and Urban Development
Office of Public and Indian Housing

SECTION 8 PROJECT-BASED VOUCHER PROGRAM

**PBV HOUSING ASSISTANCE PAYMENTS CONTRACT
NEW CONSTRUCTION OR REHABILITATION**

PART 2 OF HAP CONTRACT

This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number. Assurances of confidentiality are not provided under this collection.

2. DEFINITIONS

Agreement. Agreement to enter into HAP Contract between the owner and the PHA. The HAP contract was entered into following new construction or rehabilitation of the contract units by the owner pursuant to an Agreement.

Contract units. The housing units covered by this HAP contract. The contract units are described in Exhibit A.

Family. The persons approved by the PHA to reside in a contract unit with assistance under the program.

HAP contract. This housing assistance payments contract between the PHA and the owner. The contract consists of Part 1, Part 2, and the contract exhibits (listed in section 1.c of the HAP contract).

Housing assistance payment. The monthly assistance payment by the PHA for a contract unit, which includes: (1) a payment to the owner for rent to the owner under the family's lease minus the tenant rent; and (2) an additional payment to or on behalf of the family if the utility allowance exceeds total tenant payment.

Household. The family and any PHA-approved live-in aide.

Housing quality standards (HQS). The HUD minimum quality standards for dwelling units occupied by families receiving project-based voucher program assistance.

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HUD. U.S. Department of Housing and Urban Development.

HUD requirements. HUD requirements which apply to the project-based voucher program. HUD requirements are issued by HUD headquarters, as regulations, Federal Register notices or other binding program directives.

Newly constructed housing. Housing units that do not exist on the proposal selection date and are developed after the date of selection pursuant to an Agreement between the PHA and owner for use under the project-based voucher program.

Owner. Any person or entity who has the legal right to lease or sublease a unit to a participant.

Premises. The building or complex in which a contract unit is located, including common areas or grounds.

Principal or interested party. This term includes a management agent and other persons or entities participating in project management, and the officers and principal members, shareholders, investors, and other parties having a substantial interest in the HAP contract, or in any proceeds or benefits arising from the HAP contract.

Program. The project-based voucher program (see authorization for project-based assistance at 42 U.S.C. 1437f(o)(13)).

PHA. Public Housing Agency. The agency that has entered into the HAP contract with the owner. The agency is a public housing agency as defined in the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

Proposal selection date. The date the PHA gives written notice of proposal selection to the owner whose proposal is selected in accordance with the criteria established in the PHA's administrative plan.

Rehabilitated housing. Housing units that exist on the proposal selection date, but do not substantially comply with the HQS at that date, and are developed, pursuant to an Agreement between the PHA and owner, for use under the project-based voucher program.

Rent to owner. The total monthly rent payable to the owner under the lease for a contract unit. Rent to owner includes payment for any housing services, maintenance and utilities to be provided by the owner in accordance with the lease.

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Tenant. The person or persons (other than a live-in aide) who executes the lease as a lessee of the dwelling unit.

Tenant rent. The portion of the rent to owner payable by the family, as determined by the PHA in accordance with HUD requirements. The PHA is not responsible for paying any part of the tenant rent.

3. PURPOSE

- a. This is a HAP contract between the PHA and the owner.
- b. The purpose of the HAP contract is to provide housing assistance payments for eligible families who lease contract units that comply with the HUD HQS from the owner.
- c. The PHA must make housing assistance payments to the owner in accordance with the HAP contract for contract units leased and occupied by eligible families during the HAP contract term. HUD provides funds to the PHA to make housing assistance payments to owners for eligible families.

4. RENT TO OWNER; HOUSING ASSISTANCE PAYMENTS

a. Amount of initial rent to owner

The initial rent to owner for each contract unit is stated in Exhibit A, which is attached to and made a part of the HAP contract. At the beginning of the HAP contract term, and until rent to owner is adjusted in accordance with section 5 of the HAP contract, the rent to owner for each bedroom size (number of bedrooms) shall be the initial rent to owner amount listed in Exhibit A.

b. HUD rent requirements

Notwithstanding any other provision of the HAP contract, the rent to owner may in no event exceed the amount authorized in accordance with HUD requirements. The PHA has the right to reduce the rent to owner, at any time, to correct any errors in establishing or adjusting the rent to owner in accordance with HUD requirements. The PHA may recover any overpayment from the owner.

c. PHA payment to owner

1. Each month the PHA must make a housing assistance payment to the owner for a unit under lease to and occupied by an eligible family in

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accordance with the HAP contract.

2. The monthly housing assistance payment to the owner for a contract unit is equal to the amount by which the rent to owner exceeds the tenant rent.
3. Payment of the tenant rent is the responsibility of the family. The PHA is not responsible for paying any part of the tenant rent, or for paying any other claim by the owner against a family. The PHA is only responsible for making housing assistance payments to the owner on behalf of a family in accordance with the HAP contract.
4. The owner will be paid the housing assistance payment under the HAP contract on or about the first day of the month for which payment is due, unless the owner and the PHA agree on a later date.
5. To receive housing assistance payments in accordance with the HAP contract, the owner must comply with all the provisions of the HAP contract. Unless the owner complies with all the provisions of the HAP contract, the owner does not have a right to receive housing assistance payments.
6. If the PHA determines that the owner is not entitled to the payment or any part of it, the PHA, in addition to other remedies, may deduct the amount of the overpayment from any amounts due the owner, including amounts due under any other housing assistance payments contract.
7. The owner will notify the PHA promptly of any change of circumstances that would affect the amount of the monthly housing assistance payment, and will return any payment that does not conform to the changed circumstances.

d. Termination of assistance for family

The PHA may terminate housing assistance for a family under the HAP contract in accordance with HUD requirements. The PHA must notify the owner in writing of its decision to terminate housing assistance for the family in such case.

5. ADJUSTMENT OF RENT TO OWNER

a. PHA determination of adjusted rent

1. At each annual anniversary during the term of the HAP contract, the PHA

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shall adjust the amount of rent to owner, upon request to the PHA by the owner, in accordance with law and HUD requirements. In addition, the PHA shall adjust the rent to owner when there is a five percent or greater decrease in the published, applicable Fair Market Rent in accordance with 24 CFR 983.302.

2. The adjustment of rent to owner shall always be determined in accordance with all HUD requirements. The amount of the rent to owner may be adjusted up or down, in the amount defined by the PHA in accordance with HUD requirements.

b. Reasonable rent

The rent to owner for each contract unit, as adjusted by the PHA in accordance with 24 CFR 983.303, may at no time exceed the reasonable rent charged for comparable units in the private unassisted market. The reasonable rent shall be determined by the PHA in accordance with HUD requirements.

c. No special adjustments

The PHA will not make any special adjustments of the rent to owner.

d. Owner compliance with HAP contract

The PHA shall not approve, and the owner shall not receive, any increase of rent to owner unless all contract units are in accordance with the HQS, and the owner has complied with the terms of the assisted leases and the HAP contract.

e. Notice of rent adjustment

Rent to owner shall be adjusted by written notice by the PHA to the owner in accordance with this section. Such notice constitutes an amendment of the rents specified in Exhibit A.

6. OWNER RESPONSIBILITY

The owner is responsible for:

- a. Performing all management and rental functions for the contract units.
- b. Maintaining the units in accordance with HQS.

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- c. Complying with equal opportunity requirements.
- d. Enforcing tenant obligations under the lease.
- e. Paying for utilities and housing services (unless paid by the family under the lease).
- f. Collecting from the tenant:
 - 1. Any security deposit;
 - 2. The tenant rent; and
 - 3. Any charge for unit damage by the family.

7. OWNER CERTIFICATION

The owner certifies that at all times during the term of the HAP contract:

- a. All contract units are in good and tenantable condition. The owner is maintaining the premises and all contract units in accordance with the HQS.
- b. The owner is providing all the services, maintenance and utilities as agreed to under the HAP contract and the leases with assisted families.
- c. Each contract unit for which the owner is receiving housing assistance payments is leased to an eligible family referred by the PHA, and the lease is in accordance with the HAP contract and HUD requirements.
- d. To the best of the owner's knowledge, the members of the family reside in each contract unit for which the owner is receiving housing assistance payments, and the unit is the family's only residence.
- e. The owner (including a principal or other interested party) is not the parent, child, grandparent, grandchild, sister, or brother of any member of a family residing in a contract unit.
- f. The amount of the housing assistance payment is the correct amount due under the HAP contract.
- g. The rent to owner for each contract unit does not exceed rents charged by the owner for other comparable unassisted units.

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- h. Except for the housing assistance payment and the tenant rent as provided under the HAP contract, the owner has not received and will not receive any payments or other consideration (from the family, the PHA, HUD, or any other public or private source) for rental of the contract unit.
- i. The family does not own, or have any interest in the contract unit. If the owner is a cooperative, the family may be a member of the cooperative.

8. CONDITION OF UNITS

a. Owner maintenance and operation

The owner must maintain and operate the contract units and premises to provide decent, safe and sanitary housing in accordance with the HQS, including performance of ordinary and extraordinary maintenance. The owner must provide all the services, maintenance and utilities set forth in Exhibits B and C, and in the lease with each assisted family.

b. PHA inspections

1. The PHA must inspect each contract unit before execution of the HAP contract. The PHA may not enter into a HAP contract covering a unit until the unit fully complies with the HQS.
2. Before providing assistance to a new family in a contract unit, the PHA must inspect the unit. The PHA may not provide assistance on behalf of the family until the unit fully complies with the HQS.
3. At least annually during the term of the HAP contract, the PHA must inspect a random sample, consisting of at least 20 percent of the contract units in each building, to determine if the contract units and the premises are maintained in accordance with the HQS. Turnover inspections pursuant to paragraph 2 of this section are not counted towards meeting this annual inspection requirement.
4. If more than 20 percent of the annual sample of inspected contract units in a building fail the initial inspection, the PHA must reinspect 100 percent of the contract units in the building.
5. The PHA must inspect contract units whenever needed to determine that the contract units comply with the HQS and that the owner is providing

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maintenance, utilities, and other services in accordance with the HAP contract. The PHA must take into account complaints and any other information that comes to its attention in scheduling inspections.

c. Violation of the housing quality standards

1. If the PHA determines a contract unit is not in accordance with the HQS, the PHA may exercise any of its remedies under the HAP contract for all or any contract units. Such remedies include termination, suspension or reduction of housing assistance payments, and termination of the HAP contract.
2. The PHA may exercise any such contractual remedy respecting a contract unit even if the family continues to occupy the unit.
3. The PHA shall not make any housing assistance for a dwelling unit that fails to meet the HQS, unless the owner corrects the defect within the period specified by the PHA and the PHA verifies the correction. If a defect is life threatening, the owner must correct the defect within no more than 24 hours. For other defects, the owner must correct the defect within no more than 30 calendar days (or any PHA-approved extension).

d. Maintenance and replacement—owner's standard practice

Maintenance and replacement (including redecoration) must be in accordance with the standard practice for the building concerned as established by the owner.

9. LEASING CONTRACT UNITS

a. Selection of tenants

1. During the term of the HAP contract, the owner must lease all contract units to eligible families selected and referred by the PHA from the PHA waiting list. (See 24 CFR 983.251.)
2. The owner is responsible for adopting written tenant selection procedures that are consistent with the purpose of improving housing opportunities for very low-income families and reasonably related to program eligibility and an applicant's ability to perform the lease obligations.
3. Consistent with HUD requirements, the owner may apply its own admission procedures in determining whether to admit a family referred

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by the PHA for occupancy of a contract unit. The owner may refer families to the PHA, and recommend selection of such families from the PHA waiting list for occupancy of vacant units.

4. The owner must promptly notify in writing any rejected applicant of the grounds for rejection.
5. The PHA must determine family eligibility in accordance with HUD requirements.
6. The contract unit leased to each family must be appropriate for the size of the family under the PHA's subsidy standards.
7. If a contract unit was occupied by an eligible family at the time the unit was selected by the PHA, or is so occupied on the effective date of the HAP contract, the owner must offer the family the opportunity to lease the same or another appropriately-sized contract unit with assistance under the HAP contract.
8. The owner is responsible for screening and selecting tenants from the families referred by the PHA from its waiting list.

b. Vacancies

1. The owner must promptly notify the PHA of any vacancy in a contract unit. After receiving the owner notice, the PHA shall make every reasonable effort to refer a sufficient number of families for owner to fill the vacancy.
2. The owner must rent vacant contract units to eligible families on the PHA waiting list referred by the PHA.
3. The PHA and the owner must make reasonable good faith efforts to minimize the likelihood and length of any vacancy.
4. If any contract units have been vacant for a period of 120 or more days since owner notice of vacancy (and notwithstanding the reasonable good faith efforts of the PHA to fill such vacancies), the PHA may give notice to the owner amending the HAP contract to reduce the number of contract units by subtracting the number of contract units (by number of bedrooms) that have been vacant for such period.

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10. TENANCY

a. Lease

The lease between the owner and each assisted family must be in accordance with HUD requirements. In all cases, the lease must include the HUD-required tenancy addendum. The tenancy addendum must include, word-for-word, all provisions required by HUD.

b. Termination of tenancy

1. The owner may only terminate a tenancy in accordance with the lease and HUD requirements.
2. The owner must give the PHA a copy of any owner eviction notice to the tenant at the same time that the owner gives notice to the tenant. Owner eviction notice means a notice to vacate, or a complaint or other initial pleading used to commence an eviction action under State or local law.

c. Family payment

1. The portion of the monthly rent to owner payable by the family ("tenant rent") will be determined by the PHA in accordance with HUD requirements. The amount of the tenant rent is subject to change during the term of the HAP contract. Any changes in the amount of the tenant rent will be effective on the date stated in a notice by the PHA to the family and the owner.
2. The amount of the tenant rent as determined by the PHA is the maximum amount the owner may charge the family for rent of a contract unit, including all housing services, maintenance and utilities to be provided by the owner in accordance with the HAP contract and the lease.
3. The owner may not demand or accept any rent payment from the tenant in excess of the tenant rent as determined by the PHA. The owner must immediately return any excess rent payment to the tenant.
4. The family is not responsible for payment of the portion of the contract rent covered by the housing assistance payment under the HAP contract. The owner may not terminate the tenancy of an assisted family for nonpayment of the PHA housing assistance payment.

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5. The PHA is only responsible for making the housing assistance payments to the owner on behalf of the family in accordance with the HAP contract. The PHA is not responsible for paying the tenant rent, or any other claim by the owner.

d. Other owner charges

1. Except as provided in paragraph 2, the owner may not require the tenant or family members to pay charges for meals or supportive services. Nonpayment of such charges is not grounds for termination of tenancy.
2. In assisted living developments receiving project-based voucher assistance, owners may charge tenants, family members, or both for meals or supportive services. These charges may not be included in the rent to owner, nor may the value of meals and supportive services be included in the calculation of reasonable rent. Non-payment of such charges is grounds for termination of the lease by the owner in an assisted living development.
3. The owner may not charge the tenant or family members extra amounts for items customarily included in rent in the locality or provided at no additional cost to the unsubsidized tenant in the premises.

e. Security deposit

1. The owner may collect a security deposit from the family.
2. The owner must comply with HUD and PHA requirements, which may change from time to time, regarding security deposits from a tenant.
3. The PHA may prohibit security deposits in excess of private market practice, or in excess of amounts charged by the owner to unassisted families.
4. When the family moves out of the contract unit, the owner, subject to State and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit or other amounts which the family owes under the lease. The owner must give the family a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used as reimbursement to the owner, the owner must

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promptly refund the full amount of the balance to the family.

5. If the security deposit is not sufficient to cover amounts the family owes under the lease, the owner may seek to collect the balance from the family. However, the PHA has no liability or responsibility for payment of any amount owed by the family to the owner.

11. FAMILY RIGHT TO MOVE

- a. The family may terminate its lease at any time after the first year of occupancy. The family must give the owner advance written notice of intent to vacate (with a copy to the PHA) in accordance with the lease. If the family has elected to terminate the lease in this manner, the PHA must offer the family the opportunity for tenant-based rental assistance in accordance with HUD requirements.
- b. Before providing notice to terminate the lease under paragraph a, the family must first contact the PHA to request tenant-based rental assistance if the family wishes to move with continued assistance. If tenant-based rental assistance is not immediately available upon lease termination, the PHA shall give the family priority to receive the next available opportunity for tenant-based rental assistance.

12. OVERCROWDED, UNDER-OCCUPIED, AND ACCESSIBLE UNITS

The PHA subsidy standards determine the appropriate unit size for the family size and composition. The PHA and owner must comply with the requirements in 24 CFR 983.259.

13. PROHIBITION OF DISCRIMINATION

- a. The owner may not refuse to lease contract units to, or otherwise discriminate against any person or family in leasing of a contract unit, because of race, color, religion, sex, national origin, disability, age or familial status.
- b. The owner must comply with the following requirements: The Fair Housing Act (42 U.S.C. 3601–19) and implementing regulations at 24 CFR part 100 *et seq.*; Executive Order 11063, as amended by Executive Order 12259 (3 CFR, 1959–1963 Comp., p. 652 and 3 CFR, 1980 Comp., p. 307) (Equal Opportunity in Housing Programs) and implementing regulations at 24 CFR part 107; title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d-2000d-4) (Nondiscrimination in Federally Assisted Programs) and implementing regulations at 24 CFR part 1; the

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Age Discrimination Act of 1975 (42 U.S.C. 6101–6107) and implementing regulations at 24 CFR part 146; section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and implementing regulations at part 8 of this title; title II of the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*; 24 CFR part 8; section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) and implementing regulations at 24 CFR part 135; Executive Order 11246, as amended by Executive Orders 11375, 11478, 12086, and 12107 (3 CFR, 1964–1965 Comp., p. 339; 3 CFR, 1966–1970 Comp., p. 684; 3 CFR, 1966–1970 Comp., p. 803; 3 CFR, 1978 Comp., p. 230; and 3 CFR, 1978 Comp., p. 264, respectively) (Equal Employment Opportunity Programs) and implementing regulations at 41 CFR chapter 60; Executive Order 11625, as amended by Executive Order 12007 (3 CFR, 1971–1975 Comp., p. 616 and 3 CFR, 1977 Comp., p. 139) (Minority Business Enterprises); Executive Order 12432 (3 CFR, 1983 Comp., p. 198) (Minority Business Enterprise Development); and Executive Order 12138, as amended by Executive Order 12608 (3 CFR, 1977 Comp., p. 393 and 3 CFR, 1987 Comp., p. 245) (Women's Business Enterprise).

- c. The PHA and the owner must cooperate with HUD in the conducting of compliance reviews and complaint investigations pursuant to all applicable civil rights statutes, Executive Orders, and all related rules and regulations.

14. PHA DEFAULT AND HUD REMEDIES

If HUD determines that the PHA has failed to comply with the HAP contract, or has failed to take appropriate action to HUD's satisfaction or as directed by HUD, for enforcement of the PHA's rights under the HAP contract, HUD may assume the PHA's rights and obligations under the HAP contract, and may perform the obligations and enforce the rights of the PHA under the HAP contract.

15. OWNER DEFAULT AND PHA REMEDIES

a. Owner default

Any of the following is a default by the owner under the HAP contract:

1. The owner has failed to comply with any obligation under the HAP contract, including the owner's obligations to maintain all contract units in accordance with the housing quality standards.
2. The owner has violated any obligation under any other housing assistance payments contract under Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

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3. The owner has committed any fraud or made any false statement to the PHA or HUD in connection with the HAP contract.
4. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with any Federal housing assistance program.
5. If the property where the contract units are located is subject to a lien or security interest securing a HUD loan or a mortgage insured by HUD and:
 - A. The owner has failed to comply with the regulations for the applicable mortgage insurance or loan program, with the mortgage or mortgage note, or with the regulatory agreement; or
 - B. The owner has committed fraud, bribery or any other corrupt or criminal act in connection with the HUD loan or HUD-insured mortgage.
6. The owner has engaged in any drug-related criminal activity or any violent criminal activity.

b. PHA remedies

1. If the PHA determines that a breach has occurred, the PHA may exercise any of its rights or remedies under the HAP contract.
2. The PHA must notify the owner in writing of such determination. The notice by the PHA to the owner may require the owner to take corrective action (as verified by the PHA) by a time prescribed in the notice.
3. The PHA's rights and remedies under the HAP contract include recovery of overpayments, termination or reduction of housing assistance payments, and termination of the HAP contract.

c. PHA remedy is not waived

The PHA's exercise or non-exercise of any remedy for owner breach of the HAP contract is not a waiver of the right to exercise that remedy or any other right or remedy at any time.

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**16. OWNER DUTY TO PROVIDE INFORMATION AND ACCESS
REQUIRED BY HUD OR PHA**

a. Required information

The owner must prepare and furnish any information pertinent to the HAP contract as may reasonably be required from time to time by the PHA or HUD. The owner shall furnish such information in the form and manner required by the PHA or HUD.

b. PHA and HUD access to premises

The owner must permit the PHA or HUD or any of their authorized representatives to have access to the premises during normal business hours and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the owner to the extent necessary to determine compliance with the HAP contract, including the verification of information pertinent to the housing assistance payments or the HAP contract.

17. PHA AND OWNER RELATION TO THIRD PARTIES

a. Injury because of owner action or failure to act

The PHA has no responsibility for or liability to any person injured as a result of the owner's action or failure to act in connection with the implementation of the HAP contract, or as a result of any other action or failure to act by the owner.

b. Legal relationship

The owner is not the agent of the PHA. The HAP contract does not create or affect any relationship between the PHA and any lender to the owner or any suppliers, employees, contractors or subcontractors used by the owner in connection with the implementation of the HAP contract.

c. Exclusion of third party claims

Nothing in the HAP contract shall be construed as creating any right of a family or other third party (other than HUD) to enforce any provision of the HAP contract, or to assert any claim against HUD, the PHA or the owner under the HAP contract.

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d. Exclusion of owner claims against HUD

Nothing in the HAP contract shall be construed as creating any right of the owner to assert any claim against HUD.

18. PHA-OWNED UNITS

Notwithstanding Section 17 of this HAP contract, a PHA may own units assisted under the project-based voucher program, subject to the special requirements in 24 CFR 983.59 regarding PHA-owned units.

19. CONFLICT OF INTEREST

a. Interest of members, officers, or employees of PHA, members of local governing body, or other public officials

1. No present or former member or officer of the PHA (except tenant-commissioners), no employee of the PHA who formulates policy or influences decisions with respect to the housing choice voucher program or project-based voucher program, and no public official or member of a governing body or State or local legislator who exercises functions or responsibilities with respect to these programs, shall have any direct or indirect interest, during his or her tenure or for one year thereafter, or in the HAP contract.
2. HUD may waive this provision for good cause.

b. Disclosure

The owner has disclosed to the PHA any interest that would be a violation of the HAP contract. The owner must fully and promptly update such disclosures.

c. Interest of member of or delegate to Congress

No member of or delegate to the Congress of the United States of America or resident-commissioner shall be admitted to any share or part of this HAP contract or to any benefits arising from the contract.

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20. EXCLUSION FROM FEDERAL PROGRAMS**a. Federal requirements**

The owner must comply with and is subject to requirements of 2 CFR part 2424.

b. Disclosure

The owner certifies that:

1. The owner has disclosed to the PHA the identity of the owner and any principal or interested party.
2. Neither the owner nor any principal or interested party is listed on the U.S. General Services Administration list of parties excluded from Federal procurement and nonprocurement programs; and none of such parties are debarred, suspended, subject to a limited denial of participation or otherwise excluded under 2 CFR part 2424.

21. TRANSFER OF THE CONTRACT OR PROPERTY**a. When consent is required**

1. The owner agrees that neither the HAP contract nor the property may be transferred without the advance written consent of the PHA in accordance with HUD requirements.
2. "Transfer" includes:
 - A. Any sale or assignment or other transfer of ownership, in any form, of the HAP contract or the property;
 - B. The transfer of any right to receive housing assistance payments that may be payable pursuant to the HAP contract;
 - C. The creation of a security interest in the HAP contract or the property;
 - D. Foreclosure or other execution on a security interest; or
 - E. A creditor's lien, or transfer in bankruptcy.

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3. If the owner is a corporation, partnership, trust or joint venture, the owner is not required to obtain advance consent of the PHA pursuant to paragraph a for transfer of a passive and non-controlling interest in the ownership entity (such as a stock transfer or transfer of the interest of a limited partner), if any interests so transferred cumulatively represent less than half the beneficial interest in the HAP contract or the property. The owner must obtain advance consent pursuant to paragraph a for transfer of any interest of a general partner.

b Transferee assumption of HAP contract

No transferee (including the holder of a security interest, the security holder's transferee or successor in interest, or the transferee upon exercise of a security interest) shall have any right to receive any payment of housing assistance payments pursuant to the HAP contract, or to exercise any rights or remedies under the HAP contract, unless the PHA has consented in advance, in writing to such transfer, and the transferee has agreed in writing, in a form acceptable to the PHA in accordance with HUD requirements, to assume the obligations of the owner under the HAP contract, and to comply with all the terms of the HAP contract.

c. Effect of consent to transfer

1. The creation or transfer of any security interest in the HAP contract is limited to amounts payable under the HAP contract in accordance with the terms of the HAP contract.
2. The PHA's consent to transfer of the HAP contract or the property does not to change the terms of the HAP contract in any way, and does not change the rights or obligations of the PHA or the owner under the HAP contract.
3. The PHA's consent to transfer of the HAP contract or the property to any transferee does not constitute consent to any further transfers of the HAP contract or the property, including further transfers to any successors or assigns of an approved transferee.

d. When transfer is prohibited

The PHA will not consent to the transfer if any transferee, or any principal or interested party is debarred, suspended subject to a limited denial of participation, or otherwise excluded under 2 CFR part 2424, or is listed on the

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U.S. General Services Administration list of parties excluded from Federal procurement or nonprocurement programs.

22. SUBSIDY LAYERING

a. Owner disclosure

The owner must disclose to the PHA, in accordance with HUD requirements, information regarding any related assistance from the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, that is made available or is expected to be made available with respect to the contract units. Such related assistance includes, but is not limited to, any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance.

b. Limit of payments

Housing assistance payments under the HAP contract must not be more than is necessary, as determined in accordance with HUD requirements, to provide affordable housing after taking account of such related assistance. The PHA will adjust in accordance with HUD requirements the amount of the housing assistance payments to the owner to compensate in whole or in part for such related assistance.

23. OWNER LOBBYING CERTIFICATIONS

a. The owner certifies, to the best of owner's knowledge and belief, that:

1. No Federally appropriated funds have been paid or will be paid, by or on behalf of the owner, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of the HAP contract, or the extension, continuation, renewal, amendment, or modification of the HAP contract.
2. If any funds other than Federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the HAP contract, the owner must complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in

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accordance with its instructions.

- b. This certification by the owner is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352.

24. COMPLETION AND ACCEPTANCE OF CONTRACT UNITS

The owner certifies that the contract units have been completed in accordance with the Agreement. Completion and acceptance of the units is subject to the provisions of the Agreement.

25. TERMINATION OF HAP CONTRACT FOR WRONGFUL SELECTION OF CONTRACT UNITS

The HAP contract may be terminated upon at least 30 days notice to the owner by the PHA or HUD if the PHA or HUD determines that the contract units were not eligible for selection in conformity with HUD requirements.

26. NOTICES AND OWNER CERTIFICATIONS

- a. Where the owner is required to give any notice to the PHA pursuant to the HAP contract or any other provision of law, such notice must be in writing and must be given in the form and manner required by the PHA.
- b. Any certification or warranty by the owner pursuant to the HAP contract shall be deemed a material representation of fact upon which reliance was placed when this transaction was made or entered into.

27. ENTIRE AGREEMENT; INTERPRETATION

- a. The Agreement and the HAP contract, including the exhibits, is the entire agreement between the PHA and the owner.
- b. The Agreement and the HAP contract must be interpreted and implemented in accordance with all statutory requirements, and with all HUD requirements, including amendments or changes in HUD requirements during the term of the HAP contract. The owner agrees to comply with all such laws and HUD requirements.

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OMB Approval 2577-0276 (Expires 2/29/16)

U.S. Department of Housing
and Urban Development
Office of Public and Indian Housing

Rental Assistance Demonstration (RAD); Rider to the Section 8 Project-based Voucher (PBV) Housing Assistance Payments (HAP) Contract for New Construction or Rehabilitated Housing (Public Housing Conversions; First Component)

1. Purpose

This purpose of this Rider is to effectuate the conversion of Public Housing to section 8 PBV projects under section 8(o)(13) of the United States Housing Act of 1937 (1937 Act). This Rider must be attached to the PBV HAP Contract for New Construction or Rehabilitation.¹

2. Authority

The Consolidated and Further Continuing Appropriations Act, 2012, Pub. L. No. 112-55, approved November 18, 2011 (2012 Appropriations Act), authorizes the conversion of properties with Public Housing assistance under section 9 of the 1937 Act to properties with PBV assistance under section 8(o)(13) of the 1937 Act.

3. Amendments to the HAP Contract

- (a) Section 1.a. and all other relevant sections of the HAP Contract are revised to replace the term “Public Housing Agency” with “Contract Administrator” (CA).²
- (b) Section 1.c. of the HAP Contract is amended to eliminate the reference to a multi-stage project in Exhibit A.
- (c) Section 1.d. of the HAP Contract is amended by eliminating the multi-stage project option in section 1.d.2. In addition, the corresponding signature pages for multi-stage projects at the end of Part I of the HAP Contract are deleted.

¹ This Rider covers all Public Housing conversions. The traditional PBV distinction between “existing housing” and “rehabilitated and newly constructed housing” is overridden by the special RAD requirements contained in Notice PIH 2012-32; Rental Assistance Demonstration—Final Implementation.

² In Public Housing to PBV conversions, the Contract Administrator will be the Public Housing Agency that executes the HAP Contract with the owner and administers the voucher funding under the Consolidated Annual Contributions Contract with HUD.

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- (d) Section 1.e.1. of the HAP Contract is revised to read as follows: "The Contract begins on _____, and shall run for an initial term of ____ years."
- (e) Section 1.e.2.b. of the HAP Contract is revised to read as follows: "The initial term of the HAP Contract may not be for less than 15 years, and may be for a term of up to 20 years upon request of the owner and with the approval of the CA."
- (f) Section 1.e.3. of the HAP Contract is revised to read as follows: "**Owner Obligation to Accept Offers to Renew.** The owner acknowledges and agrees that upon expiration of the initial term of the Contract, and upon each renewal term of the Contract, the owner shall accept each offer to renew the Contract, subject to the terms and conditions applicable at the time of each offer, and further subject to the availability of appropriations for each year of each such renewal."
- (g) Section 1.e.4 of the HAP Contract is revised to read as follows:

4. Funding of PBV HAP contract

a. Funding for remainder of calendar year in which the HAP Contract becomes effective. The HAP Contract shall be funded from the effective date of the Contract through the remainder of the calendar year from public housing amounts obligated prior to the effective date of the Contract, and from any additional public housing amounts that HUD obligates in full or in part, subject to the availability of sufficient appropriated funding, for the remainder of the calendar year in which the Contract becomes effective. In the latter case, to the extent sufficient appropriated funding becomes available, HUD will obligate such funding and provide the CA and owner written notification of (i) the amount of such funding, and (ii) the approximate amount of time within the remainder of the calendar year in which the Contract becomes effective to which it will be applied. Notwithstanding any other provisions in this Contract, housing assistance payments and RAD Rehab Assistance Payments are subject to the requirements in this paragraph during the remainder of the calendar year in which the HAP Contract becomes effective.

b. Funding for remainder of the initial term and any renewal term. For the remainder of the initial term and any renewal term, the initial term and any renewal term shall be subject to the availability of sufficient appropriated funding (budget authority), as provided in appropriations acts and in the CA's Consolidated Annual Contributions Contract with HUD, to make full payments of housing assistance payments due to an owner for any contract year in accordance with the HAP Contract. The availability of sufficient funding must be determined by HUD or the CA in accordance with HUD requirements. If it is determined that there may not be sufficient funding to continue housing assistance payments for all contract units

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and for the full term of the HAP Contract, the CA has the right to terminate the Contract by notice to the owner for all or any of the Contract units. Such action by the CA shall be implemented in accordance with HUD requirements.

- (h) Section 1.g.1. of the HAP Contract is revised by replacing the phrase “25 percent” with the phrase “50 percent.”
- (i) Section 1.g.3. of the HAP Contract is revised by replacing the phrase “25 percent” with the phrase “50 percent.” In addition, a second paragraph is added to this section to read as follows: “The excepted unit provisions in the PBV regulations generally apply to RAD projects. However, for existing families occupying units when the PBV contract is initially executed, a unit may count as a supportive service excepted unit if the CA offers the family supportive services. The family is not required to accept the services, and may not be evicted for a refusal to accept such services. In addition, an assisted family shall not be involuntarily displaced as a result of this provision. Once an existing family leaves a supportive service excepted PBV unit, the CA and owner must comply with 24 C.F.R. § 983.56(b)(2)(B) (“Families Receiving Supportive Services”) and all other HUD requirements in order to continue treating the unit as a support service excepted unit.”
- (j) Section 2 of the HAP Contract is revised by: (1) deleting the definitions of “Agreement,” “Newly constructed housing,” “Proposal selection date,” and “Rehabilitated housing”; and (2) adding a third sentence to the definition of “HUD requirements” as follows: “HUD requirements include Notice PIH 2012-32; Rental Assistance Demonstration—Final Implementation (RAD Implementation Notice).”
- (k) Section 5.a.1. of the HAP Contract is revised to read as follows: “Subject to section 5.b. of the HAP Contract, at each anniversary date during the term of the Contract, the CA will adjust the rent to owner by applying HUD’s operating cost adjustment factor (OCAF), subject to the availability of appropriations for each year of the Contract term.”
- (l) Section 5.b. of the HAP Contract is revised to read as follows: “The rent to owner for each Contract unit may at no time exceed the reasonable rent charged for comparable units in the private unassisted market, as determined by the CA in accordance with 24 C.F.R. § 983.303. However, the rent to owner shall not be reduced below the initial rent to owner for dwelling units under the HAP Contract except in the following cases: (1) to correct errors in calculations in accordance with HUD requirements; (2) if additional housing assistance has been combined with PBV assistance after the execution of the HAP Contract and a rent decrease is required pursuant to 24 C.F.R. § 983.55; or (3) if a decrease in rent to owner is required based on changes in the allocation of responsibility for utilities between the owner and the tenant.”

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- (m) Section 7.a. of the HAP Contract is revised to read as follows: “The owner certifies that during the term of the HAP Contract: a. All Contract units meet HQS, or will meet HQS no later than the date of completion of initial repairs as indicated in the RAD Conversion Commitment (attached as an Exhibit to this Contract), which will be on _____.”
- (n) Section 8.b.1. of the HAP Contract is revised to read as follows: “The CA must inspect each Contract unit after rehabilitation is completed in accordance with the RAD Conversion Commitment.”
- (o) Section 9.a.1. of the HAP Contract is revised to read as follows: “During the term of the HAP Contract, the owner must lease all Contract units to eligible families selected and referred by the CA from the CA’s waiting list. The waiting list shall be established and maintained in accordance with HUD requirements, including the special PBV waiting list provisions in section 1.6.D.4 of the RAD Implementation Notice.”
- (p) A new Section 10.b.3. of the HAP Contract is added to read as follows : “The owner shall provide adequate written notice of termination of the lease, which shall be a reasonable period of time, not to exceed 30 days: (A) If the health or safety of other tenants, owner employees, or persons residing in the immediate vicinity of the premises is threatened; or in the event of any drug-related or violent criminal activity or any felony conviction; (B) 14 days in the case of nonpayment of rent; and (C) 30 days in any other case, except that if a State or local law provides for a shorter period of time, such shorter period shall apply.”
- (q) A new Section 10.b.4. of the HAP Contract is added to read as follows: “The owner must renew all tenant leases upon expiration, unless good cause under 24 C.F.R. § 983.257(a) exists for non-renewal of a lease.”
- (r) Section 18 of the HAP contract is revised to read as follows: “Notwithstanding Section 17 of the HAP Contract, a PHA may own units assisted under the PBV program, subject to the special requirements in 24 C.F.R. 983.59 regarding PHA-owned units and all other HUD requirements governing PHA ownership of PBV units.”
- (s) Section 21 of the HAP Contract is revised throughout by requiring HUD consent instead of PHA consent for actions covered under section 21 of the Contract.

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- (t) Section 21a.1. of the HAP Contract is revised to read as follows: "The owner and the CA agree that neither the HAP Contract nor the property may be transferred without the written consent of HUD."
- (u) Section 21.a.2. of the HAP Contract is revised by adding the following at the end of the definition of "transfer": "F. Any refinancing or restructuring of permanent debt by the owner of the project."
- (v) Section 24 of the HAP Contract is deleted. Sections 25, 26, and 27 are redesignated as sections 24, 25, and 26 respectively.
- (w) Sections 26.a. and 26.b. of the HAP Contract are amended by deleting the phrase "Agreement."

4. Additional Terms and Alternative Requirements

- (a) A new section 27 is added to the HAP to read as follows:

27. RAD Rehab Assistance Payments

For any unit that (1) is vacant during the period of initial repairs pursuant to the RCC; and (2) was receiving payment under the Public Housing Operating Fund immediately prior to the effective date of this Contract, the Owner is entitled to receive a monthly RAD Rehab Assistance Payment in the amount of subsidy that the Owner received for the unit under the Public Housing Operating Fund and the Capital Fund immediately prior to the effective date of this Contract. The amount of monthly RAD Rehab Assistance Payments shall be up to \$_____ per unit, as determined by HUD, and shall commence upon effective date of this Contract, so long as the Owner is in compliance with the approved repair schedule as provided in the RCC. All RAD Rehab Assistance Payments shall end, and the Owner will cease to be entitled to any such payment, (1) on _____, _____; or (2) upon actual completion of such work, if sooner.

- (b) A new Section 28 of the HAP Contract is added to read as follows:

28. CA Board Approval

The CA's Board must approve the operating budget for the covered project annually in accordance with HUD requirements.

- (c) A new section 29 of the HAP Contract is added to read as follows:

29. Property and Liability Insurance

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The owner agrees that the project shall be covered at all times by commercially available property and liability insurance to protect the project from financial loss. To the extent insurance proceeds permit, the owner agrees to promptly restore, reconstruct, and/or repair any damaged or destroyed property of a project, except with the written approval of HUD to the contrary.

(d) A new section 30 of the HAP Contract is added to read as follows:

30. Resident Procedural Rights; Grievance Process

The owner and the CA must comply with the grievance process requirements in section 1.6.C.7.b. of the RAD Implementation Notice for projects converting to PBV assistance.

(e) A new section 31 is added to the HAP Contract to read as follows:

31. Resident Participation and Funding

In accordance with Attachment 1B.2B. of the RAD Implementation Notice, captioned "PBV Resident Participation and Funding," families in projects that convert to PBV assistance have the right to establish and operate resident organizations for the purpose of addressing issues related to their living environment. The Attachment details all of the requirements governing Resident Participation and Funding, which the owner must comply with.

(f) A new section 32 is added to the HAP Contract to read as follows:

32. Flood Insurance

If the project is located in an area that has been identified by the Federal Emergency Management Agency as an area having special flood hazards and if the sale of flood insurance has been made available under the National Flood Insurance Program, the owner agrees that: (1) the project will be covered, during the life of the property, by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less; and (2) that it will advise any prospective purchaser or transferee of the property in writing of the continuing requirement to maintain such flood insurance during the life of the property.

(g) A new section 33 is added to the HAP Contract to read as follows:

33. Replacement Reserve Requirement

The owner shall establish and maintain a replacement reserve in accordance with HUD requirements."

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(h) **Owner Proposal Selection Procedures.** Projects will be selected for assistance in accordance with the provisions in the RAD Implementation Notice. Therefore, 24 C.F.R. § 983.51 does not apply.

(i) **Percentage Limitation.** Section 8(o)(13)(B) of the 193 Act and 24 C.F.R. § 983.6 do not apply to assistance provided under RAD.

(j) **Consistency With PHA Plan and Other Goals.** Section 8(o)(13)(C)(ii) of the 1937 Act and 24 C.F.R. §§ 983.57(b)(1) and (c) do not apply.

Signatures:
Contract Administrator

Owner

Print or Type Name of Contract Administrator

Print or Type Name of Owner

Signature

Signature

Print or Type Name and Title of Signatory

Print or Type Name and Title of Signatory

Date (mm/dd/yyyy)

Date (mm/dd/yyyy)

EXHIBIT D
Sources and Uses

SOURCES		USES	
Public Housing Operating Reserves	\$2,356,000	Building & Land Acquisition	
Prior Year Public Housing Capital Funds	\$334,462	Other Costs	
Replacement Housing Factor		Payoff Existing Loans	\$1,900,000
Low Income Housing Tax Credit Equity - 4%		Construction Costs	\$852,132
Low Income Housing Tax Credit Equity - 9%		Relocation Costs	
Other: Land Sale Proceeds	\$720,000	Architecture & Engineering	
Other:		PCA	\$25,699
Other:		Borrower's Legal Counsel	
Other:		Lender's Legal Counsel	
Other:		Feasibility Studies	
Total Sources	\$3,410,462	Environmental Reports	\$6,950
		Appraisal / Market Study	
		Accounting	
		Survey	
		Other Costs	
		FHA MIP	
		FHA Application Fee	
		FHA Inspection Fee	
		Financing Fee	
		Organizational Costs	
		Title Insurance/Exam Fee	\$14,200
		Recordation Fee	
		Closing Escrow Agent Fee	
		Prepayment Penalty	
		Payables	
		Construction Interest	
		Construction Loan Fees	
		Cost of Bond Issuance	
		Other Costs	
		Initial Deposit to Replacement Reserve	\$202,868
		IOD Escrow	
		Operating Reserve	\$408,613
		Tax and Insurance Escrow	
		Other	
		Developer Fees	
		Total Uses	\$3,410,462

EXHIBIT E
Key Business Terms

NOT APPLICABLE

EXHIBIT F
List of Repairs or New Construction

REHABILITATION SPECIFICATIONS IMPROVEMENTS						
WORK						
Work Item (A)	Description of Improvements Work (B)		Quantity (C)	Unit Cost (D)	Budget (E)	Date of Bid Expiration (F)
Rehab Items (Code, Description)	<i>Increase row height to fully display description text</i>					
3.3.2.4.02	Windows	Replace windows with Energy Star Vinyl Double Pane windows	22,354	\$15.04	\$336,204	
3.4.1.2.01	DHW #1	Replace DHW with tankless water heater	235	\$804.91	\$189,154	
3.4.1.3.01	Water Savers: Faucets	Replace bath and kitchen faucets with WaterSense branded faucets	150	\$58.51	\$8,777	
3.4.1.3.02	Water Savers: Shower Heads	Replace Shower Heads with 1.5GPM or less Shower Heads	112	\$32.45	\$3,634	
3.7.1.02	Common Area Interior Lighting	Replace 4' Fluorescent bulbs with LED conversion kit bulbs	270	\$21.10	\$5,697	
3.7.1.05	Exterior Lighting	Replace Exterior pole mounted lighting with LED technology	79	\$600.00	\$47,400	
3.7.2.11.04	Refrigerators 1	Replace refrigerators with Energy Star models	235	\$555.99	\$130,658	
3.7.2.2.01	Bath Counter Tops, Sinks	Lower bath sinks and insulated drains and hot water line at 1900 & 1902 Madison Avenue.	2	\$1,402.00	\$2,804	
3.7.2.3.01	Interior Carpet	Replace carpet on the 2nd floor at 1350 W. Colorado Street	10,882	\$1.60	\$17,411	
3.7.2.4.02	In-Unit Lighting Bulbs	Replace CFLs with LED technology	3,376	\$9.57	\$32,308	
3.8.01	Replace Fixed Shower Head	Replace fixed mounted shower head and replace with ADA compliant shower head on hose.	2	\$309.00	\$618	
Total Improvements Eligible for Rehab Escrow					\$774,665	
10.0% Contingency					\$77,467	
Total Rehab Escrow Improvements Plus Contingency = TOTAL FUNDING					\$852,132	

EXHIBIT G
List of Critical Repairs

NOT APPLICABLE

EXHIBIT H

NOT APPLICABLE

EXHIBIT I-1

NOT APPLICABLE

EXHIBIT I-2

NOT APPLICABLE