



# **MPHA 2019 MOVING TO WORK ANNUAL PLAN**

**Fiscal Year January 1 – December 31, 2019**



**Approved by the MPHA Board of Commissioners: September 26, 2018**

**Submitted to HUD: October 1, 2018 and June 7, 2019**

**Approved: June 10, 2019**

**Amendment Approval (Appendix I): October 23, 2019**

**EQUAL HOUSING OPPORTUNITY – EQUAL EMPLOYMENT OPPORTUNITY**

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### MISSION STATEMENT

*To promote and deliver quality, well-managed homes to a diverse low-income population and, with partners, contribute to the well-being of the individuals, families and community we serve.*

MPHA Executive Director: Gregory P. Russ

## ABOUT THE MOVING-TO-WORK PROGRAM

In 1996, Congress created the Moving to Work (MTW) Demonstration Program. The program allows designated housing authorities to design and test innovative, locally-designed strategies for providing low-income families with affordable housing. MTW allows the agency to waive most HUD regulations if it is pursuing one of three statutory objectives: (1) increasing housing choices, (2) creating opportunities for families with children to become self-sufficient, and (3) increasing cost effectiveness of the agency. An MTW agency may also move funds as needed among its programs, within certain guidelines, to best meet local needs.

In 2008, the U.S. Department of Housing and Urban Development (HUD) granted MPHA its MTW status. We are one of 39 MTW agencies nationwide. MTW status does not increase MPHA's funding from HUD (and, despite its name, it does not impose work requirements on residents). However, it gives MPHA additional flexibility to weather federal funding volatility and to design programs that allow us to better serve our Minneapolis community.

Each year, MTW agencies such as MPHA must prepare two documents for HUD. In the fall, MPHA submits an MTW Annual Plan in which MPHA describes the ways we intend to exercise our MTW flexibilities in the coming year. This annual plan includes a detailed look at the programs, operations, and major capital investments of the housing authority, as well as any new MTW initiatives MPHA proposes to pursue. Each spring, MPHA submits an MTW Annual Report, which assesses our progress with respect to our goals over the prior year, summarizes our operating information, and provides updates on previously authorized MTW activities. The components of both documents are prescribed by HUD.

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## Letter from the Executive Director

Just this month at a conference of housing authority leaders, a panel from HUD delivered a presentation titled simply, “Future of Public Housing.” These four words have lately become a common, go-to phrase for people who work in this field. Those of us who live and breathe this material every day tend to dive right past it, into the details. For our communities, however, there is a lot of complexity packed into those four simple words. It is worth a moment to consider exactly what they mean.

First, “the future.” Our philosophical pivot from the present to the future is hard to overstate. The motivation is clear: although the federal support for our programs has been sinking, the need for them stretches out to the horizon. Deep housing subsidies are as relevant today as they have ever been; if anything, calls for housing affordability only continue to grow.

Yet in recent decades housing authorities, including MPHA, have focused on meeting our mission day-to-day, month-to-month, year-to-year. To our credit, we have sustained our good work with less (and less, and less). In the meantime, the future has grown uncomfortably close. We can envision units pulled from service for lack of capital funding, or families with vouchers increasingly hemmed in by limited choice and opportunity.

Housing authorities are flying toward this reckoning at different speeds. For all of us, the old mindset—focused on doing the best we can, in the present—is no longer tenable. We must devote a substantial portion of our energy today to assuring that we are here to serve families tomorrow. Our communities should know that this is a major shift in how we see our work.

The second part of the phrase is “public housing”—and here it is especially important to be clear about what we mean. One interpretation clings to a technical definition, forged in the middle of the last century, based on promises the federal government has broken by providing less (and less and less) funding. Although housing authorities like MPHA will relentlessly press Congress to reverse this trend, this interpretation is rooted in an era that has passed.

A future-worthy definition of public housing rises from a set of essential and non-negotiable values that are not tied to the technical source of funding. Public housing means accountability and transparency. It means our sole focus is on the well-being of our community, especially its lowest income and most vulnerable citizens. It means developing and managing housing in the interest of these groups and no one else. It means opening opportunities for working families to realize their economic goals, thus making way for other deserving families to follow in their footsteps. It means collaborating with partners in the community, governmental and non-governmental, when they advance our public service mission.

When we put these values together with a modern set of tools, the “future of public housing” begins to come into focus. In the following pages, I invite you to read about MPHA’s vision to get there.



Greg Russ, Executive Director/CEO  
Minneapolis Public Housing Authority

# **MPHA 2019 MTW Annual Plan**

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## I. INTRODUCTION/OVERVIEW: Putting Vision into Practice

The Minneapolis Public Housing Authority (MPHA) approaches 2019 with powerful motivation—and an equally powerful vision.

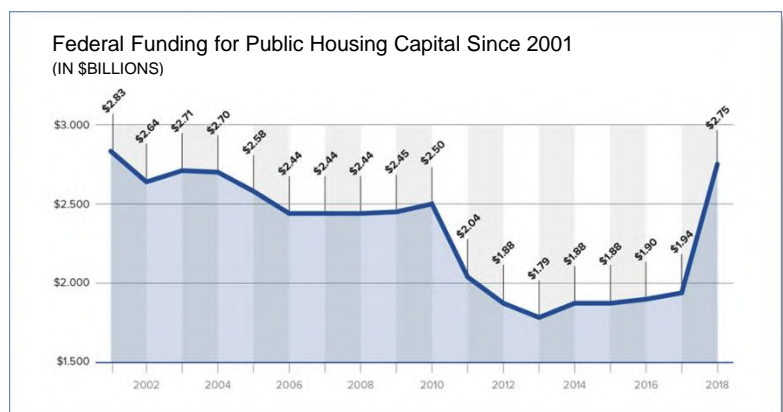
Public housing authorities across the U.S. sit dangerously squeezed between two opposing forces. On one side, decades of federal disinvestment and budget pressure; on the other, the low-income, often vulnerable families who rely upon our programs to meet the fundamental human need of shelter. It has become the “new normal” to operate without adequate funding, yet this new normal is not sustainable. Congress consistently underfunds public housing operations and the costs of administering our housing voucher program. Perhaps most pressing of all: in 2019—against estimated federal capital funding of just \$14 million—MPHA will face a \$140 million backlog of major repairs and other capital needs in the housing we own and operate. This number grows well beyond \$500 million in the next 20 years.

*To be faithful to our mission, we must find innovative ways to fund our work so that we may continue to serve our current families and the families who will surely need us in the future.*



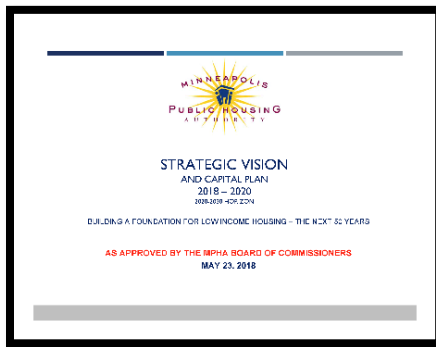
MPHA has learned over many years to run lean and make smart decisions. We have wisely used our flexibility under MTW to combine funding sources and target our most urgent needs. MPHA repurposes MTW funds to support administration of our voucher program, augment our capital expenditures, and support security and other operational needs. These measures buy time. They do not buy a different outcome in the long run.

A federal budget agreement in 2018 brought a modest break from steady declines in funding. Congress ignored proposals by the Trump administration that would have decimated public housing and voucher programs nationwide, in part by cutting the capital fund entirely and a 50 percent cut to our operational subsidy. However, MPHA considers this budget agreement no kind of victory, and history gives us no reason to take anything for granted into 2019. Even stable funding at this late stage cannot reverse decades of underinvestment in public housing capital. Nor will it allow us to extend our reach to help meet the persistent need for affordable housing that we see all around us in Minneapolis.



Source: Public Housing Authority Directors Association (PHADA)

At every turn, we will add our agency's voice to those calling on Congress to stand behind the programs and properties it created in the last century. However, we see no near-term scenario in which Washington rides to the rescue. To be faithful to our mission, we must find innovative ways to fund our work so that we may continue to serve our current families and the families who will surely need us in the future. This means using our MTW funding flexibility wherever we can to address in our unique needs in Minneapolis. It also means mobilizing in partnership with our community to invest together in physical and human capital that benefits us all.



More on the Strategic Vision:  
[MPHAOnline.org/Vision](http://MPHAOnline.org/Vision)

Our lodestar in 2019 and beyond will be the **MPHA Strategic Vision and Capital Plan**, approved by our board in May 2018. The Strategic Vision places funding, partnerships, and operational innovations at the root of a long-term plan to preserve our mission in the current environment. The Strategic Vision followed more than a year of engaging the community on the challenges we face and the protections that public housing residents deserve. Early in this process, the MPHA Board adopted our “Guiding Principles for Redevelopment and Capital Investments,” which ensure right-to-return, stable rent, relocation assistance, and resident input on design and livability.

The initiatives under MPHA’s Strategic Vision fall under three headings:



With the Strategic Vision as our long-term trajectory, this structure will guide MPHA’s near-term actions and investments in 2019.



## **PRESERVING AND CREATING DEEPLY AFFORDABLE HOUSING**

The diversity, age, and depth of capital needs across MPHA’s housing portfolio mean that no single tool or approach lights the way to the future. Instead, MPHA will explore a wide and creative menu of funding and structural options to preserve the homes we provide. In 2019, we will continue research and predevelopment work made possible by our \$2 million Working Capital Fund, funded in partnership with the McKnight Foundation. We will also leverage partnerships to expand deeply affordable housing using project-based vouchers (PBVs), and we anticipate reopening our Housing Choice Voucher (HCV) waiting list in 2019. *MPHA’s detailed projection of public housing capital expenses can be found in Appendix B.*

The public will—and should—hold MPHA to a high standard of accountability for our low-income housing mission. However, MPHA intends to lead a conversation based upon real-world solutions—not fantasies, fear-stoking, or twisted terminology. **Private investment for rehabilitation and repair—with underlying public control and public management—is not privatization. Redevelopment and reinvestment—without displacement—is not gentrification.** To all those with a passion for social justice and the human right to a quality home, we invite you to join with us to make Minneapolis a national leader in preserving and improving public housing.

## New Housing Targeting Local Needs

In 2019, MPHA will complete construction and begin housing families at the Minnehaha Townhomes, **16 townhomes dedicated to families experiencing persistent homelessness.** This first **new public housing** built in Minneapolis since 2010 is the culmination of years of work and collaboration with our funding, design, and neighborhood partners, including the city, county, state, and many others. The development is in an area of economic opportunity, and includes a playground, green space, community patio, and convenient access to the city trail and transit systems. The families who will live at the Minnehaha Townhomes will receive services from the county and a rapid rehousing provider.



*The Minnehaha Townhomes*



*MPHA employees break ground on the Minnehaha Townhomes*

For this project, **MPHA was the developer and will own and manage the property—a model we intend to follow in our future efforts to preserve and add housing.** Although the path to developing public housing projects is challenging, Minnehaha Townhomes will become a reality in 2019, demonstrating how committed partners working together can provide new homes for some of the hardest-to-house in our community.

In other cases, partners may provide housing and services while MPHA provides an underlying subsidy. MPHA regularly enters into agreements to project-base housing vouchers when we believe doing so creates

valuable opportunities for the families who use them, and when that funding can leverage the creation of further affordable housing. However, 2019 will be our first full year using our new open-ended request for proposals (RFP) for PBVs, under which we intend to **strategically place up to 400 vouchers—Housing Choice, veterans (VASH), and non-elderly disabled (“mainstream”)—in ways that align with the values and needs of the community**, while achieving maximum return in creating additional affordable housing.



## Preserving and Stabilizing MPHA Scattered Sites through “Section 18”

MPHA owns approximately 730 “scattered site” homes across most parts of Minneapolis. These single-family homes (and a handful of duplexes and four-unit properties) provide essential housing to 80 percent of the low-income families with children served by MPHA. They offer a unique opportunity for families in public housing to integrate seamlessly into their surrounding neighborhoods, and often serve as a training ground for future homeownership.



*An MPHA scattered-site home*

The distance between the sites, varied building types and systems, and other challenges with efficiency and effectiveness make it difficult to manage and sustain these units under the current public housing subsidy. The long-term trend of underfunding for public housing operations and capital needs is unlikely to reverse. These older homes will require more work in coming years. The cost to perform this work is substantially greater than the vastly insufficient Public Housing Capital Fund can cover. Simply addressing the capital needs of our scattered site portfolio would consume 100 percent of MPHA’s expected capital fund allocation for the next five years.

*HUD’s Section 18 and Tenant Protection Vouchers could assure continued housing for the families we serve and an increased, stable source of funding to support the scattered site homes.*

Accordingly, MPHA will explore whether an application under HUD’s Section 18 provisions could **place the scattered sites on a stable financial footing, without relocation or any day-to-day change for residents** who live there now. This application would require consultation with residents and MPHA board approval. No third party is involved. In recent guidance, HUD explicitly indicated scattered site housing as an example of housing it “generally approves” under Section 18 in the best interests of residents, and as consistent with the mission of HUD and the PHA.

Under HUD’s Section 18 process, MPHA would transfer ownership (HUD calls this process “disposition”) of the scattered sites (AMP 2) to a non-profit established and fully controlled by MPHA. This

necessary step would allow MPHA to apply for Section 8 Tenant Protection Vouchers (TPVs) which would provide a higher level of funding for each family than under the current public housing structure. Residents may agree to project-base TPVs in the scattered site units they occupy. Where families choose to use the TPV as a tenant-based voucher, MPHA would use its additional capacity to project-base vouchers in the scattered sites as needed, under our existing MTW authority.

MPHA could not proceed without receipt of TPVs, which assure continued housing for the families we serve and an increased, stable source of funding to support the scattered site homes going forward. A HUD Section 18 transfer of the properties as described here would also allow MPHA to



*MPHA scattered sites can provide a stepping-stone to home-ownership, as they did for the Vang family.*

access other sources of capital in the future for major repairs and renovations to these houses (something we cannot do under the current structure). In rare cases, the physical condition of a scattered site property may be such that it is unsustainable in the near-term even under the increased subsidy. In these cases—which MPHA will identify as we explore our HUD Section 18 application—MPHA would seek HUD approval for other outcomes that would allow us to serve the same or more families (for example, by rebuilding a fourplex where a single-family home once stood). Families in these homes would receive TPVs and full relocation benefits, to which they are entitled by law. If they choose, we would accommodate them elsewhere within our scattered site portfolio.

## Preserving Deeply Affordable Homes Using RAD

In 2019, MPHA expects to pursue applications to **preserve and invest in our housing portfolio using HUD’s Rental Assistance Demonstration (RAD) program**. RAD allows housing authorities, with HUD approval, to convert properties from one federal funding platform (public housing) to another: project-based rental subsidies under Section 8. In an era of declining federal investment in public housing capital repairs, moving to this project-based subsidy 1) creates a more **stable, long-term funding stream** for operating the property, and 2) opens up opportunities for **new investment to fix the buildings**. Since its creation in 2012, hundreds of public housing authorities (PHAs), locally and nationally, have used RAD to preserve more than 90,000 homes. Many more agencies, like MPHA, are preparing to apply.

The RAD program exists to help housing authorities preserve the deeply affordable homes they provide. That is exactly how MPHA intends to use it. Aside from any temporary relocation to accommodate major repairs, **a RAD conversion is essentially seamless for residents, and essential protections are written directly into the RAD requirements:**

- Residents cannot lose housing assistance through RAD.
- Residents are guaranteed a right to return to their building (if they do need to move out for any renovations).
- RAD does not increase rent, which is set at the same level as in public housing (currently 30 percent of monthly income).
- Although the funding comes from Section 8, this does not mean residents are given a Section 8/Housing Choice Voucher. The point of RAD is for residents to continue living in the building.
- RAD keeps the resident processes and rights under public housing, including the grievance process and funding for resident organizations.
- RAD requires resident engagement at multiple stages in the process, including informational meetings with residents prior to any application.

*The RAD program exists to help housing authorities preserve the deeply affordable homes they provide. That is exactly how MPHA intends to use it.*



*The Elliot Twins*

The RAD process can be a lengthy and complex one for a housing authority. We must assemble any necessary financing and demonstrate to HUD that the conversion is financially sustainable.

**MPHA has submitted a RAD application for one property: the Elliot Twins**, a pair of mid-rise buildings near downtown Minneapolis. These buildings, built in 1961, are among MPHA's oldest. They face a substantial capital need and present **outstanding potential to create enhanced livability for residents and new community amenities, while preserving these highrise units for the long-term**. A RAD conversion of the Elliot Twins poses a financial challenge, with a substantial funding gap that we will work with the community to fill. This may include Low-Income Housing Tax Credit (LIHTC) investment, loans, bonds, grants, city and/or county funding, and potential energy savings arising from the renovation. Residents of the Elliot Twins would receive all protections under the RAD

program (as described above) and a much-enhanced living space after the project's completion. In the event that a RAD conversion does not materialize for the Elliot Twins, we will continue to maintain and support the properties and look for other opportunities and HUD preservation tools to assure their long-term viability as low-income housing.

MPHA will pursue further RAD applications as indicated by our underlying financial and capital needs data, and in line with the priorities under our Strategic Vision. Each application and approval will follow the prescribed disclosure and public process as required by HUD. MPHA currently has no pending or approved applications under RAD. Following HUD guidelines, MPHA will file a "substantial amendment" to this MTW Annual Plan to capture any approved application for a RAD conversion.



*MPHA resident Robert moves to his updated apartment following a recent remodel. Apartment renovations under RAD work no differently than they do now—there will simply be more of them.*

**We invite readers to go straight to the source at <https://www.hud.gov/RAD>** to learn more about the **process and protections for residents** under RAD, browse **case studies of how RAD has preserved public housing** in other cities (<https://is.gd/RADCaseStudies>), and read the HUD RAD Notice that underlies the process and protections (<https://is.gd/RADNotice>).



## Energy Efficiency Pilots that Scale to Big Savings over Time



*Crews blow in cellulose attic insulation at the Glendale Townhomes.*

MPHA is one of the largest property-holders in our community. Investing in energy savings both advances Minneapolis' climate-change goals and MPHA's objective to preserve and financially support our deeply affordable housing. **Investing in energy savings on the front-end lowers our operating expenses over time, creating savings MPHA can put toward preserving and creating more housing.**

That's why we intend to build and rehab "deep green" where we can, knowing that over time we can multiply this investment many-fold in support of our mission. In 2019, MPHA and Glendale Townhomes residents will enjoy the benefits of a major weatherization program undertaken across all 184 units. This began from a promising

partnership to conduct a pilot project on a single building, from which we demonstrated a return-on-investment (and comfort) that made sense across the entire property.

In 2019, MPHA intends to undertake the **comprehensive rehabilitation of one of our single-family scattered site units to energy-efficient standards**. This pilot project will help MPHA and our partners learn about the process and potential of integrating a high standard of energy improvements into our ongoing renovation work. We will also explore the **construction of an ultra-energy-efficient four-unit property**, as a pilot that may lead to many more such projects in future years. These projects will launch from MPHA's \$3 million Scattered-Site Redevelopment Fund, and we will seek sponsor partners for the energy technology and building materials. Our design work for any rehab projects as part of RAD conversions will also include an attention to energy efficiency.



*Early rendering of an energy-efficient remodel of an MPHA scattered site.*



*Local partnership funds new A/C units and refrigerators*

We will continue to pursue any new opportunities for energy rebates or grants, including our Franklin Energy/Xcel Energy **partnership to replace aging appliances** in our highrise buildings, as these partners' resources permit. We may explore, with the City of Minneapolis and local energy partners, a pilot at one of our highrises of the **"inclusive financing"** (also known as "Pay-As-You-Save") model, which could allow us to fund substantial energy improvements through a utility bill tariff.

These and other intriguing concepts suggest MPHA can attain additional energy savings on top of our existing Energy Performance Contract with Honeywell.

## Same Land, More Homes

One way to create additional family housing is to **expand or build in greater density on properties we already own**. In 2019, MPHA will explore replacing certain obsolete scattered site houses with fourplexes. This flexibility depends in part upon certain zoning changes currently under consideration by the City of Minneapolis. MPHA will also explore the potential to place “tiny homes” or other **modular, prefabricated living units** on our properties as a way of creating additional homes for low-income families while **reducing construction and operating costs**.

MPHA may also begin the master-planning process to explore whether our current headquarters office and other non-housing properties that we own could support additional housing, and the steps we must follow to redevelop in future years.

MPHA will also pursue **additional opportunities to stabilize and preserve additional affordable housing in the Minneapolis community**. We will continue ongoing efforts to determine the best long-term framework for the affordable housing community at Heritage Park, a mixed-income community that includes public housing units. We will move forward on efforts to operationalize the conversion of subsidy assistance at our Metropolitan Housing Opportunities Program (MHOP) units to PBVs. MPHA will remain open to purchasing or partnering to **preserve naturally occurring affordable housing (NOAH)** that is at risk of being lost in the City of Minneapolis.



*MPHA's headquarters site may also someday be able to support housing*

## Maintenance and Security Innovations to Maximize Livability and Resources



*Minneapolis Police Chief Medaria Arradondo with residents and MPHA staff at the 2018 Project Lookout Cookout*

Along with preserving the housing itself, public housing residents place maintenance and personal safety at the top of their priorities. Though security is not directly funded with federal HUD dollars, MPHA prioritizes security within our capital budget. For example, in 2018 MPHA made major security-related investments at The Cedars (\$825,000) and The Atrium (\$400,000) to bring greater safety and peace-of-mind for residents. These types of investments benefit not only residents in public housing buildings, but the surrounding neighborhoods. Through **security-minded enhancements to buildings and grounds**—along with a dense network of security cameras, dedicated Project Lookout resident volunteers, and a strong partnership with

the Minneapolis Police and the city—MPHA will continue to place resident security at the front of our considerations.



*MPHA Executive Director Greg Russ (left) inspects furnace components at Glendale.*

MPHA has a strong tradition of responding promptly to work orders and stretching our limited federal dollars for operations and maintenance. This is evidenced by our strong Public Housing Assessment System (PHAS) inspections performance and occupancy rate consistently in the high 90s. A long-term strategy of comprehensive capital reinvestment is, of course, the most durable remedy for ongoing maintenance challenges. In the meantime, MPHA will begin in 2019 to **design and pilot an enhanced preventive maintenance schedule, the Quality Maintenance Program (QMP)**, designed to reduce the frequency of non-emergency work orders and system failures. Funded initially at \$2 million over two years, the QMP will feature detailed weekly,

monthly, and quarterly production schedules; improved integration of grounds, janitorial, pest control, and major systems maintenance tasks; and checklists to keep each unit a step ahead of potential livability issues. We will work with MPHA's on-the-ground experts—residents and building staff—to design the program. We expect to pilot the program first at Horn Towers and Glendale Townhomes, before expanding to other sites.



## **MAXIMIZING OPPORTUNITY THROUGH EDUCATION, EMPLOYMENT, AND HEALTH**

We believe housing is the primary foundation for stable families, better educational outcomes, employment, and wellness. Opening the right opportunities today—especially for families with children—leads to long-term self-sufficiency, allowing families to realize their goals of financial independence and MPHA to serve more families off our waiting lists. MPHA intends to push forward on partnerships and programs that invest in housing as the vital core of family economic opportunity, pairing it with services when possible.

MPHA's commitment to low-income families extends to using its spending power for good. Under HUD's Section 3 program, MPHA plans to enhance and expand its program to provide training, employment, contracting and other economic opportunities to our residents and other lower-income individuals.

## **Dedicated Local Vouchers for Families of Homeless Students**

Nearly one in ten elementary students in the Minneapolis Public Schools (MPS) experiences homelessness—a state of affairs with long-term effects on the well-being of children and concentrations of poverty. What began as an idea between MPHA and one school in North Minneapolis has grown into a citywide proposal, led by MPHA, the Mayor of Minneapolis, and MPS, to provide **local vouchers to families of homeless students** at 15 schools where the challenge



*More than 40 percent of the people served by MPHA programs are children.*



is greatest. Pending funding from the city, we expect to begin offering these special-purpose, local, education-linked vouchers in 2019 to low-income families identified by MPS as currently homeless or in danger of becoming so.

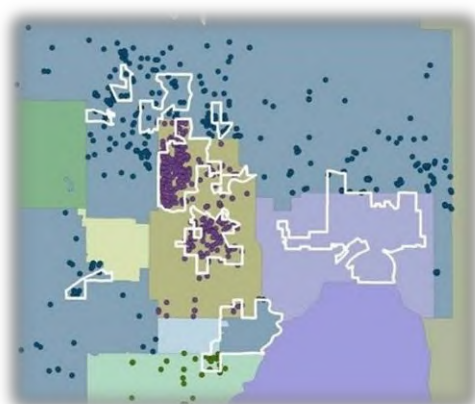
The “Stable Homes, Stable Schools” program will be administered by MPHA. As proposed, the city will contribute 60 percent of the rental assistance, and MPHA the remainder. Hennepin County and social service non-profits will provide housing search assistance and a web of on-going supports. Parents commit to engagement in their child’s education through their school, and to create a Family Success Plan with a case manager. Local foundations may provide other supports, including a housing stabilization fund, while MPHA will work with third-party researchers to monitor outcomes and program success.



*Minneapolis Mayor Jacob Frey announces "Stable Homes, Stable Schools," a joint effort with MPHA and the Minneapolis Public Schools*

Using MTW flexibility, MPHA will continue conversations with potential partners in 2019 to create other flexible subsidies that can be tailored to the needs of families, the priorities of the community, and the experience of our non-profit partners. These include **housing-linked job training for adults**, such with potential partners including Summit Academy, Twin Cities Rise, and the Northside Achievement Zone.

## Increasing Opportunity through Mobility and Regional Collaboration



*Map compiled by MPHA—using partner PHA data—showing voucher distribution (dots) and areas of concentrated poverty in the Twin Cities (inside white lines).*

For children, moving to a neighborhood with lower poverty can make a lifetime of difference for education, health, and employment outcomes. In 2019, MPHA will continue our push on various fronts to knock down obstacles and widen neighborhood choices for families with housing vouchers. Using a grant from the Family Housing Fund, MPHA will continue **collaborations with our adjacent PHAs** and Housing and Redevelopment Agencies (HRAs), **to reduce administrative barriers and identify available housing in areas of opportunity.**

With our partner the Metropolitan Council Housing and Redevelopment Authority, **MPHA will pursue a request to the HUD Secretary to form a Regional MTW Agency**, as authorized under the 2016 Consolidated Appropriations Act.

This would extend aspects of MPHA’s flexibility to Metro HRA and possibly others who join in the future. Initially, we will create a first-of-its-kind regional mobility initiative to understand which program interventions are most effective in enabling families to successfully move to areas of opportunity using tenant- or project-based vouchers. MPHA has partnered with nation-leading researchers and foundations

to support and fund the project, including Raj Chetty of Harvard University, social policy researchers MDRC, and the Creating Moves to Opportunity (CMTO) research collaborative.

MPHA will also continue to **expand our own Mobility Voucher Program**. A dedicated mobility specialist helps families find and afford rentals in areas of greater opportunity—inside and outside of Minneapolis. We have also completed a rent study to better understand rental trends in the Minneapolis marketplace and inform data-driven decisions on where to adjust our payment standards. MPHA will implement these area rents in ways that allow families to stretch their voucher further, living where they can maximize their chances for success and the success of their children.



*MPHA's Mobility Voucher Program has allowed participants like Myeisha to find stable housing in strong neighborhoods, helping her maintain steady employment.*

## A Home, a Job, and a Second Chance



*Better Futures participants celebrate the groundbreaking for Great River Landing.*

In 2019, a major partnership comes to fruition as Great River Landing rises in the North Loop neighborhood of Minneapolis. The project will feature **72 apartments for ex-offenders who make a commitment to being good parents, workers, and community members**. The tenants will have a home, a job, and access to services that promote health and recovery. Using MTW flexibility, MPHA has committed 40 PBVs to Great River Landing, providing the essential subsidy to make the project a reality for core partners Better Futures Minnesota and Beacon Interfaith Housing

Collaborative. We will use our MTW flexibility to provide PBV payments as a flat subsidy, giving our partners the freedom to structure rent payments in a way that best encourages employment for this distinct group. Along with the Downtown View apartments for homeless youth that opened in 2018, there are no better examples of how MPHA, as an MTW agency, can apply our federal subsidies to make local dreams a reality.

## From Public Housing to Property Owner

Though modest in scale, under MTW MPHA continues each year to mint new homeowners through our **public housing Lease-to-Own program**. Participants enter their townhomes as public housing residents, making a commitment to build savings, maintain steady employment, and practice good tenancy that leads to a purchase of their home within five years. The program began with 20 townhomes, and in 2019 we anticipate nearing the halfway mark. MPHA continues to learn from experience and adapt this innovative program to maximize success for families ready to make this transition to self-sufficiency and homeownership. Beyond the Lease-to-Own program, MPHA will continue to explore additional ways to help public housing residents and families with vouchers on their journey along the housing continuum.



*New homeowners Mohamed and Sundus*

## A Booster Shot for Health and Wellness



*MPHA highrise residents browse materials at a recent meeting on smoking cessation.*

In MPHA highrises, more than 60 percent of residents are seniors and more than 60 percent are disabled. In 2019, MPHA will **strengthen our partnerships around health-related resident services in our highrises**. We will also assess the impact of these existing partnerships to identify weaknesses or gaps, collaborating closely with residents to hear their concerns and successes. We intend to explore partnerships with city and county health departments and with insurance providers that have an interest in supporting stable, quality housing that leads to lower health costs and better outcomes. We will identify capital investors willing to develop community-based access to health and supportive services at our properties.

We will begin the process of re-establishing MPHA's resident services program for public housing residents and participants in the voucher program as a needed gateway to health and other supportive services.





## STRIVING FOR OPERATIONAL EXCELLENCE

Operational excellence leads to savings we can apply to our other priorities—and better service to our families and community.

### Streamlining Processes and Improving Customer Service



In 2019 MPHA will migrate to a single software platform for our asset management and multiple housing programs. This change, long in coming, will bring efficiency and stability to the systems that underlie so much of what we do. We will **apply technology** on the front-end, too, with new video briefings that will simplify the intake and recertification process for staff and families with housing vouchers. We will also accelerate the ongoing process of reviewing and updating our operational policies and procedures, **giving MPHA staff the tools they need to operate at their peak**. In 2019, this includes implementing updates to our HCV and public housing procedures.

The successful application of a “Continuous Improvement” approach in our HCV department in 2018 has inspired us to roll it out more widely across the organization. **Continuous Improvement Teams** bring together front-line employees who are in the best position to know our operational challenges and strengths. These teams offer frank insights to department leaders—helping us problem-solve for challenges that, in some cases, we didn’t even know we had.

### Growing MPHA’s Organizational Capacity

MPHA will continue to align our workforce recruitment, training, and internal career-pathing with the goals of our Strategic Vision. This specifically means developing internal expertise and accountability around real estate development, new approaches to asset and property management, green construction, and managing relationships with old and new partners in our journey. Our goal is to enhance our ability to grow from within while attracting and retaining the best talent to help deliver on our vision.



We will also begin to combine eligibility and leasing activities across our different programs, and pursue the creation of internship and Section 3 jobs programs that harmonize MPHA’s values with our workforce needs.



## ENGAGING RESIDENTS AND THE COMMUNITY

Our three strategic initiatives—Housing Preservation and Creation; Education, Employment, and Health; Operational Excellence—are built upon strong relationships. We intend to nurture those relationships in 2019, moving forward as a team.

### Facing the Future Together with Powerful Resident Leadership



*Executive Director Greg Russ hears from residents at a recent MHRC meeting.*

MPHA continues to enjoy a strong, constructive relationship with the **Minneapolis Highrise Representative Council (MHRC)**, the umbrella non-profit group for our highrise buildings' resident councils. MHRC efforts touch on security (MPHA continues its contributions to MHRC's "Project Lookout" program), safety (such as MHRC's work to address dangerous pedestrian intersections near our buildings), and wellness (including an Active Living Committee and activities designed to foster active and healthy lifestyles).

MHRC is also a crucial partner in helping MPHA engage residents to plan and advocate with us for the preservation of our public housing, and providing valuable feedback on our unfolding efforts. **Their voice carries far and rings true** when making the case for investing in public housing, whether at Minneapolis City Hall, Minnesota State Capital, or in Washington DC. We look forward to another year advocating alongside them in 2019.

MPHA's Resident Advisory Board (RAB) will continue operating in 2019 under a revised charter that expands its membership and further cements its essential role in providing insights to MPHA's Board of Commissioners. We anticipate ongoing efforts in 2019 to achieve consistent representation on the RAB of families with housing vouchers and in MPHA's family public housing and will continue to **support the RAB as a productive, deliberative forum for resident input.**



*MPHA's Resident Advisory Board (RAB)*

In 2019, MPHA will also invest in **community engagement efforts to revive the sense of community and restore an active, representative resident council at the Glendale Townhomes.** Glendale has been without a resident council for some years, limiting resident access to participation funds and creating a challenge for MPHA and the neighborhood in partnering with Glendale residents in constructive ways. Glendale and the families who live there are a deeply valued part of MPHA, and we will invest in the strength of that community. We will also continue efforts to reconstitute a resident council for our scattered site properties.

## Brainstorming with Residents on Design and Livability

As we assemble the financial tools to make major improvements in our buildings, we will confer often with the people these improvements are for. Through listening sessions and workshops, **MPHA residents will play a key role in helping MPHA determine the design and features that will work for them.** As we have embarked on the conversation around our Strategic Vision, the process is already sparking suggestions and discussion about how to craft living and common spaces that meet the needs of our resident community, including design that supports good mental health, aging-in-place, and spaces available for prayer. Although these conversations will often engage residents property-by-property, the MHRC has also formed a Design and Livability Committee to provide consistent, ongoing insights and feedback on our efforts.

## Investing in Vital Relationships in the Community and Government



MPHA's constituency extends beyond the people we serve, to the neighborhoods and wider communities of Minneapolis and Minnesota. Minneapolis is in the midst of a deep and passionate community conversation about affordable housing. **MPHA must be both a leader and a listener,** responding to community needs while trumpeting **the irreplaceable role we play in housing people with the very lowest incomes:** working parents, children, persons with disabilities, immigrants, and seniors. With our federal subsidies, MPHA is *the only housing provider that can serve households below 30 percent of area median income* at any significant scale.

Throughout 2019, we will work to maximize understanding and confidence around our Strategic Vision, while we demonstrate its promise by executing on our near-term goals. We will continue to visit with **neighborhood groups and community leaders,** including from the Somali community and other constituencies, to foster a common understanding about the challenges we face, where we hope to go, and how we can work together to get there. We will expand on our strong and growing **partnership with the Minneapolis City Council and mayor,** continuing to make the case for public housing and housing vouchers as a threatened and essential community asset. We will carry the same message to our state lawmakers, Senators, and Members of Congress.



Citizens and officials at every level have a role to play in securing the future of public housing. At this critical moment, we should all be motivated to come together around the worthy challenges ahead:

- to **provide homes to people with the lowest incomes,** whom few other programs can reach;
- to **reinvent a federal program with a vital public purpose** and tens-of-thousands of people in Minneapolis who need it;
- to **look families in the eye and say we are doing all we can to secure safe homes** as they grow old, supportive places for people with disabilities, and greater opportunities for children.

We have the vision. The time is now to see it through.

## I.A. MPHA'S Housing Assistance Programs

The Minneapolis Public Housing Authority (MPHA) is the largest public housing authority in Minnesota. We own and manage 6,000 public housing units and administer more than 5,000 housing vouchers, providing around 26,000 people in Minneapolis with decent, safe, and affordable housing. MPHA is a federally funded, independent government agency with a Board of Commissioners appointed by the Minneapolis City Council and Mayor.

MPHA provides housing to over 6,000 families (about 10,500 people) through its **Public Housing** program. In this traditional model, most families receiving assistance from MPHA earn less than 30 percent of the Area Median Income (AMI), approximately \$28,300 for a family of four. Families contribute no more than 30 percent of their income toward their rent. While most of our homes are in high-rise buildings, MPHA also owns and operates single-family/duplex/fourplex homes throughout the city, two townhome developments, and places from its waitlist at certain third-party developments. MPHA partners provide assisted-living and memory care at two facilities.

6,245 Public Housing Units with around 10,500 residents		
<b>5,006</b> Units in <b>42</b> high-rise apartment buildings, including 12 senior-designated buildings. <b>736</b> "Scattered site" single-family homes and duplexes <b>13</b> Lease-to-Own townhomes <b>184</b> Family townhome units <b>306</b> Public housing units across other metropolitan developments	<b>HIGHRISES</b> <b>63%</b> seniors <b>62%</b> disabled <b>2%</b> children <b>34%</b> Somali households <b>82%</b> people of color <b>16%</b> of households have employment income	<b>FAMILY properties</b> <b>3%</b> seniors <b>10%</b> disabled <b>57%</b> children <b>34%</b> Somali households <b>95%</b> people of color <b>71%</b> of households have employment income
<b>Average annual household income: \$14,841</b> (working households: \$29,173)		

Under MPHA's **Housing Choice Voucher** program (HCV, also known as "Section 8"), eligible families receive a voucher that pays a portion of their rent in a privately-owned apartment or home. Families contribute approximately 30 percent of their income toward rent and utilities; MPHA pays the rest. Families can use the voucher within Minneapolis or outside the city. MPHA administers over 5,000 vouchers, including special vouchers for veterans and families experiencing homelessness. Some vouchers are "project-based," in which MPHA contracts with private owners to attach a voucher to specific units and assure those units are preserved as affordable housing.

5,143 Housing Vouchers covering more than 15,500 people	
<b>4,509</b> Housing Choice Vouchers, including: <b>712</b> project-based vouchers <b>34</b> Families in Mobility Voucher Program <b>261</b> Veterans Affairs Supportive Housing (VASH) vouchers <b>100</b> Family Unification Program (FUP) vouchers <b>273</b> Supportive housing vouchers <i>MPHA also administers more than 700 vouchers issued by other housing authorities, but used in Minneapolis.</i>	<b>6%</b> seniors <b>17%</b> disabled <b>51%</b> children <b>35%</b> Somali households <b>94%</b> people of color <b>47%</b> of households have employment income <b>\$17,208</b> average annual household income (working households: \$25,601)

Updated July 2018



## I.B. Information on the MPHA Budget

### Fiscal Year 2019 MTW Budget

The MTW program provides MPHA financial flexibility to expend HUD public housing operating and capital resources and Housing Choice Voucher (HCV) program resources interchangeably among these programs, rather than limit spending to the program “silos” from which the funds were derived. The combination of the three programs at the local level creates an MTW local block grant that expands our allowable use-of-funds beyond non-MTW PHAs. This gives MPHA the opportunity to design and test innovative, locally-designed strategies that use federal dollars more efficiently and provide opportunities for program creativity and innovation.

The MTW Budget presented for 2019 allocates resources to carry out:

- the daily operation and major building rehabilitation activities that are planned for MPHA’s public housing program;
- the administration and housing assistance payments for the HCV Program; and
- innovative, locally-designed strategies to meet the mission of MPHA.

Because Congress has not yet passed a funding bill for 2019, MPHA’s 2019 MTW Budget assumes program funding at the level passed by the House Appropriations Committee. The House funding is somewhat less than, but very close to, the bill passed by the Senate Appropriations Committee. The 2019 MTW Budget assumes HUD will provide only 94% of the Public Housing Operating Subsidy formula (approximately \$1.3 million less than the amount of subsidy HUD considers is needed for MPHA’s housing stock). The HCV Program housing assistance payment (HAP) subsidy is anticipated to be funded at 100% of the formula amount, and the program administrative fees funded at only 75% of the formula amount. The budget also estimates that the public housing Capital Fund award will match the amount awarded to MPHA in 2018 (approximately \$14.8 million). The budgeted sources of funds are 13% higher than the 2018 MTW Budget, anticipating improved federal subsidy and grant resources compared to the drastically low levels we budgeted for in 2018.

MPHA’s estimated loss of federal subsidy because of insufficient Congressional appropriations is more than \$2 million for 2019. The breakdown by appropriation account is presented in the following schedule.

	<b>Subsidy Formula Eligibility</b>	<b>2019 Budget (Prorated Subsidy)</b>	<b>Subsidy Loss</b>
Public Housing Operating Subsidy	21,497,000	20,207,000	1,290,000
MTW HCV HAP Subsidy	46,554,000	46,554,000	-
Admin Fee Subsidy	2,985,000	2,239,000	746,000
<b>Total Subsidy Loss due to Proration</b>			<b>2,036,000</b>

On the spending side, the 2019 MTW Budget increases overall spending by 10.5 percent, driven primarily through increased public housing capital improvements spending. The budget funds the current number of participants with MTW housing choice vouchers and continues MPHA's rent reform initiative. The planned expenditures for major public housing building rehabilitation is detailed in Appendix B ("Planned Capital Expenditures") of this MTW annual plan.

Additionally, the Capital Fund Program will include funding for a new preventive maintenance program. The Quality Maintenance Program (QMP) will deliver an improved approach to grounds, janitorial, pest control, and major systems maintenance through the establishment of scheduled work tasks that includes modest repairs and replacements due to wear-and-tear. The QMP will prioritize care and servicing of equipment, unit interiors, common areas, and other building components for the purpose of maintaining satisfactory operating condition, by providing systematic inspection, detection, and correction of issues either before they occur or before they develop into major defects.

The 2018 federal appropriations for the Capital Fund Program provided a 42% increase over 2017 (approximately \$4.8 million). Subsidies for HCV HAP and public housing operations also improved, but to a much lesser extent. Federal subsidies and grants are expected to remain near the 2018 levels. However, these increases, while better than the recent past, remain drastically less than needed. For example, the \$4.8 million increase in the Capital Fund Program funds just over 3% of the current unmet capital needs. The Public Housing Operating Subsidy is still underfunded by \$1.3 million for 2019.

In response to insufficient HUD funding for the public housing program and for the administration of the HCV Program, MPHA will use its MTW spending flexibility to transfer HCV HAP subsidy to cover these shortfalls for fiscal year 2019 (MPHA's fiscal year is January to December). Additionally, HCV HAP subsidy will be used to fund MTW initiatives for costs associated with locally-designed strategies to meet MPHA's mission. A breakdown of the use of HCV HAP subsidy is presented in the following schedule.

	Use of HCV HAP Funding
MTW HAP Subsidy	46,554,000
MTW HAP Expenses	40,370,000
<b>MTW HAP Gain/(Loss)</b>	<b>6,184,000</b>
Transfer to HCV Administration	(1,869,000)
Transfer to Public Housing Operations	(1,220,000)
Transfer to MTW Initiatives	(335,000)
Transfer to Capital Fund	(2,760,000)
<b>Net Gain/(Loss)</b>	<b>-</b>



The total 2019 MTW Budget anticipates \$110 million in sources of funds and plans for \$110 million in uses of funds. The MTW reserves are expected to remain at \$13.1 million.

	Public Housing Operations	MTW Housing Choice Vouchers	Capital Fund Program	MTW Initiatives	Total MTW Funds
<b>Sources</b>					
Tenant Revenue -Rents & Other	21,827,000	-	-	-	21,827,000
Federal - Operating Subsidies & Grants	20,207,000	2,239,000	2,492,000	-	24,938,000
Federal- Section 8 HAP Subsidy	-	46,554,000	-	-	46,554,000
Federal - Capital Grants	-	-	13,440,425	-	13,440,425
Interest Income	200,000	60,000	-	-	260,000
City Contribution	450,000	785,000	-	-	1,235,000
Other Revenues, Fees, & Grants	1,544,000	417,000	-	-	1,961,000
<b>Total Sources</b>	<b>44,228,000</b>	<b>50,055,000</b>	<b>15,932,425</b>	<b>-</b>	<b>110,215,425</b>
<b>Uses</b>					
Property Management and Program Administration	7,976,000	3,224,000	10,000	319,000	11,529,000
Fees	5,774,000	1,344,000	1,482,000	-	8,600,000
Tenant Services	850,000	-	-	16,000	866,000
Utilities	8,316,000	-	-	-	8,316,000
Maintenance	13,810,000	-	1,000,000	-	14,810,000
Protective Services	2,200,000	-	-	-	2,200,000
Insurance & Casualty Loss	1,377,000	17,000	-	-	1,394,000
Other General	2,500,000	-	-	-	2,500,000
Debt Service	2,445,000	-	-	-	2,445,000
HAP	-	41,155,000	-	-	41,155,000
Capital Improvements & Equipment	200,000	-	16,200,425	-	16,400,425
<b>Total Uses</b>	<b>45,448,000</b>	<b>45,740,000</b>	<b>18,692,425</b>	<b>335,000</b>	<b>110,215,425</b>
<b>Net Program Sources/(Uses)</b>	<b>(1,220,000)</b>	<b>4,315,000</b>	<b>(2,760,000)</b>	<b>(335,000)</b>	<b>-</b>
Program Transfers In/(Out)	1,220,000	(4,315,000)	2,760,000	335,000	-
<b>Net Sources/(Uses)</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Projected Reserves<sup>1</sup> as of Dec. 2018</b>					
Projected Reserves <sup>1</sup> as of Dec. 2018	12,279,000	858,000	-	-	13,137,000
Budgeted Changes in Reserves	-	-	-	-	-
Commitments for Asset Preservation					4,000,000
<b>Budgeted Reserves<sup>1</sup> as of Dec. 2019</b>	<b>12,279,000</b>	<b>858,000</b>	<b>-</b>	<b>-</b>	<b>9,137,000</b>

<sup>1</sup> Reserves are defined as Unrestricted Net Position

Consistent with MPHA's Strategic Vision and Capital Plan, \$4 million of the MTW reserve is being committed to cover costs associated with implementing asset redevelopment and repositioning strategies. These strategies are listed in more detail in Appendix B of this MTW Annual Plan. At this time, MPHA has not identified specific dollar amounts for each of the strategies, nor the timing when costs will be incurred to implement them. To account for the future need for resources to

implement asset redevelopment and repositioning, funds are presented as committed reserves in the schedule above.

## Other Federal Housing Assistance Programs Budget

In addition to MTW funds, MPHA receives funds for other federal housing assistance programs. These programs consist of Section 8 moderate rehabilitation and single room occupancy housing vouchers, housing vouchers for veterans (VASH), housing vouchers related to HUD's Family Unification Program (FUP), and housing vouchers for HUD's Special Needs Assistance Program (SNAP).

The Section 8 moderate rehabilitation program and Section 8 single room occupancy program provides project-based rental assistance to cover rent plus property rehabilitation costs to private owners who rent to low-income families. The moderate rehabilitation program was repealed in 1991 and no new projects are authorized for development. MPHA's housing assistance for the moderate rehabilitation program is limited to properties previously rehabilitated under this program and now covers only the rental cost. The HUD funded VASH program provides rental assistance for homeless Veterans. The program also includes case-management and clinical services provided by the Department of Veterans Affairs. The FUP program provides rental assistance to families where inadequate housing is a primary factor preventing the placement of a child or the return of a child from out-of-home care. The SNAP program provides rental assistance to quickly rehouse homeless individuals and families.

	Section 8 Mods & SROs	VASH	FUP	SNAP	Total Other Section 8 Programs
<b>Sources</b>					
Federal - Operating Subsidies & Grants	294,000	196,000	75,000	6,000	571,000
Federal- Section 8 HAP Subsidy	2,045,000	1,832,000	1,169,000	75,000	5,121,000
Interest Income	10,000	2,000	1,000		13,000
<b>Total Sources</b>	<b>2,349,000</b>	<b>2,030,000</b>	<b>1,245,000</b>	<b>81,000</b>	<b>5,705,000</b>
<b>Uses</b>					
Program Administration	183,000	183,000	74,000	-	440,000
Fees	61,000	61,000	23,000	-	145,000
Insurance & Casualty Loss	1,000	1,000	-	-	2,000
HAP	2,045,000	1,832,000	1,169,000	75,000	5,121,000
<b>Total Uses</b>	<b>2,290,000</b>	<b>2,077,000</b>	<b>1,266,000</b>	<b>75,000</b>	<b>5,708,000</b>
<b>Net Program Sources/(Uses)</b>	<b>59,000</b>	<b>(47,000)</b>	<b>(21,000)</b>	<b>6,000</b>	<b>(3,000)</b>
<b>Budgeted Reserves<sup>1</sup> as of December 2019</b>	<b>1,627,000</b>	<b>198,000</b>	<b>-</b>	<b>14,600</b>	<b>1,839,600</b>

## Non-Federal Funds Budget

The non-federal funds budget includes funds derived from the settlement of damages to MPHA resulting from a 2012 HUD operating subsidy offset, remaining profits derived from inspecting Class 4d properties for the State of Minnesota, and a \$300,000 grant received in 2017 (of which \$222,000 is expected to be spent in 2019) from the Family Housing Fund for planning and implementing a regional mobility initiative.

	Non-Federal Funds	Family Housing Fund Grant	Total Other Non-Federal Funds
<b>Sources</b>			
Interest Income	10,000		10,000
Other Revenues, Fees, & Grants		-	-
<b>Total Sources</b>	<b>10,000</b>	<b>-</b>	<b>10,000</b>
<b>Uses</b>			
Administration	315,000	72,000	387,000
Planning		80,000	80,000
Research		70,000	70,000
Capital Improvements	1,176,000		1,176,000
<b>Total Uses</b>	<b>1,491,000</b>	<b>222,000</b>	<b>1,713,000</b>
<b>Net Program Sources/(Uses)</b>	<b>(1,481,000)</b>	<b>(222,000)</b>	<b>(1,703,000)</b>
<b>Budgeted Reserves<sup>1</sup> as of December 2019</b>	<b>20,000</b>	<b>-</b>	<b>20,000</b>

## Self-Insured General Liability Budget

	Self Insurance Fund
<b>Sources</b>	
Interest Income	35,000
<b>Total Sources</b>	<b>35,000</b>
<b>Uses</b>	
Claims	200,000
<b>Total Uses</b>	<b>200,000</b>
<b>Net Program Sources/(Uses)</b>	<b>(165,000)</b>
<b>Budgeted Reserves<sup>1</sup> as of December 2019</b>	<b>3,113,000</b>

MPHA is self-insured for general liability claims. The claims covered in the general liability fund are those claims not covered by insurance purchased for property, auto, workers compensation, crime, and cyber. MPHA considers actuarial studies to ascertain expected losses and has a HUD waiver to be self-insured.

## Public Housing Development Budget

	Minnehaha Townhomes
<b>Sources</b>	
Minnesota Housing	1,170,000
City of Minneapolis	531,000
<b>Total Sources</b>	<b>1,701,000</b>
<b>Uses</b>	
Construction	1,655,000
Soft Costs	46,000
<b>Total Uses</b>	<b>1,701,000</b>
<b>Net Program Sources/(Uses)</b>	<b>-</b>

MPHA will be completing the construction of Minnehaha Townhomes, a 16-unit public housing townhome in south Minneapolis for families experiencing homelessness. The development will include four two-bedroom units and 12 three-bedroom units. Only a portion of the development costs are expected to be paid in 2019. The sources and uses are presented at left.

## Central Office Cost Center

Consistent with HUD's asset management requirements, overhead costs that benefit one or more HUD programs are budgeted for within the Central Office. The Central Office budgeted costs are supported by fees charged to each program. MPHA plans to charge up to the HUD permitted fees, including fees permitted by MPHA's local asset management plan (LAMP), because these fees are non-program income, defederalized, and subject only to local government restrictions. Maximizing this fee revenue offers MPHA the greatest discretion in supporting its programs and having funds to leverage other grants and development activities.

The Central Office budget is balanced, with sources and uses both equal to \$8.8 million. In addition, there is a \$500,000 use of reserves to increase funding for the Working Capital Fund.

	Central Office
<b>Sources</b>	
Public Housing Management Fees	5,774,000
Section 8 Administrative Fee	1,489,000
Capital Fund Administrative Fee	1,482,000
Interest Income	74,000
Other Income	27,000
<b>Total Sources</b>	<b>8,846,000</b>
<b>Uses</b>	
Administration	7,954,000
Utilities	166,000
Maintenance	188,000
Protective Services	69,000
Insurance & Casualty Loss	67,000
Other General	202,000
Equipment	200,000
<b>Total Uses</b>	<b>8,846,000</b>
<b>Net Program Sources/(Uses)</b>	<b>-</b>
Program Transfers In/(Out)	(500,000)
<b>Net Sources/(Uses)</b>	<b>(500,000)</b>
<b>Budgeted Reserves<sup>1</sup> as of December 2019</b>	<b>5,261,000</b>

## Working Capital Fund

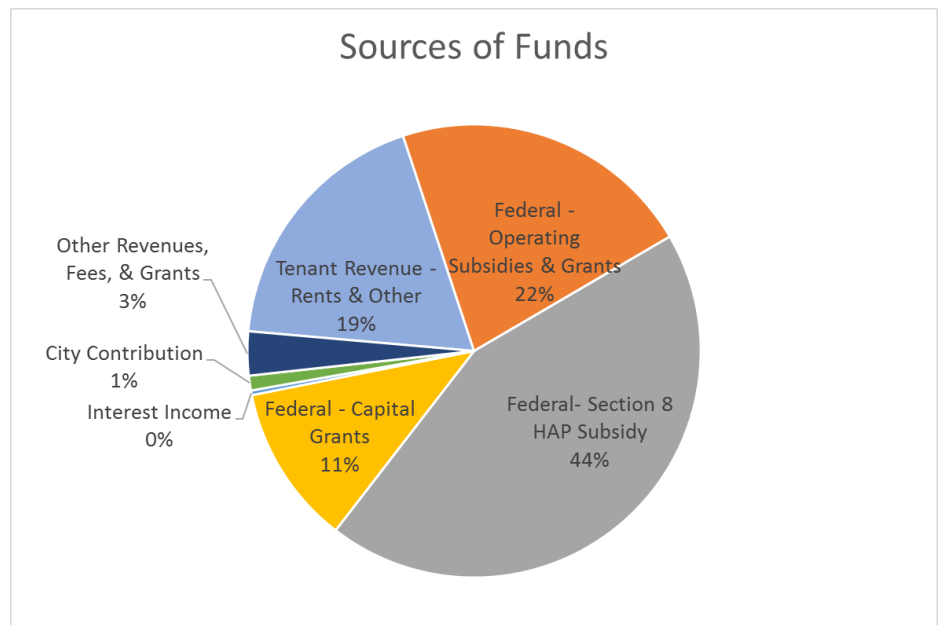
Chronic federal underfunding of the housing authority's Capital Fund Program has put MPHA's portfolio in peril. Over the past two decades, MPHA has not been able to invest in the full range of repairs, upgrades, and redevelopment needed to preserve the public housing stock in Minneapolis for current and future residents. MPHA has traditionally received approximately \$10 million annually against an estimated \$139 million in current capital needs, and the backlog of capital needs grows each year. The difficulty in prioritizing the truly urgent capital projects across the portfolio has become substantially greater over time. To address this crisis, MPHA continues to evaluate the entire real estate portfolio, determining the best way to enhance each property's value while preserving its viability as safe, high-quality housing for low-income residents.

The Working Capital Fund is used to cover the costs associated with the portfolio assessment needed to launch a 10 to 15-year improvement effort. This fund covers the predevelopment costs associated with planning and completing the assessments and, in selected cases, moving to close on individual deals. MPHA has assembled a team of experts including development consultants, financial and legal advisors, architects, planners, and MPHA staff. The Working Capital Fund is partially funded by a 2018 McKnight Foundation award to MPHA of \$1,000,000; this grant has been combined with MPHA resources to fund this work. The 2019 budget calls for the remaining balance in the fund to be expended in 2019. The budget calls for a \$500,000 contribution from MPHA's Central Office to replenish the fund.

	Working Capital Fund
<b>Sources</b>	
MPHA Central Office Contribution	500,000
<b>Total Sources</b>	<b>500,000</b>
<b>Uses</b>	
Overall General Advisor and Program Facilitator	25,000
Financial Consulting	100,000
Legal Consulting	75,000
Development, Master Planning, Market & Real Estate Analysis, and Appraisal Activities	150,000
Architectural/Engineering and Energy Consulting	75,000
Community Engagement	50,000
Communications/Public Relations & Reporting Activities	25,000
Resident Self Sufficiency and Services Enhancement	100,000
MPHA Labor and Administrative Support Costs	325,000
Training and Travel	25,000
Contingency	-
<b>Total Uses</b>	<b>950,000</b>
<b>Net Program Sources/(Uses)</b>	<b>(450,000)</b>
<b>Budgeted Reserves<sup>1</sup> as of December 2019</b>	<b>500,000</b>

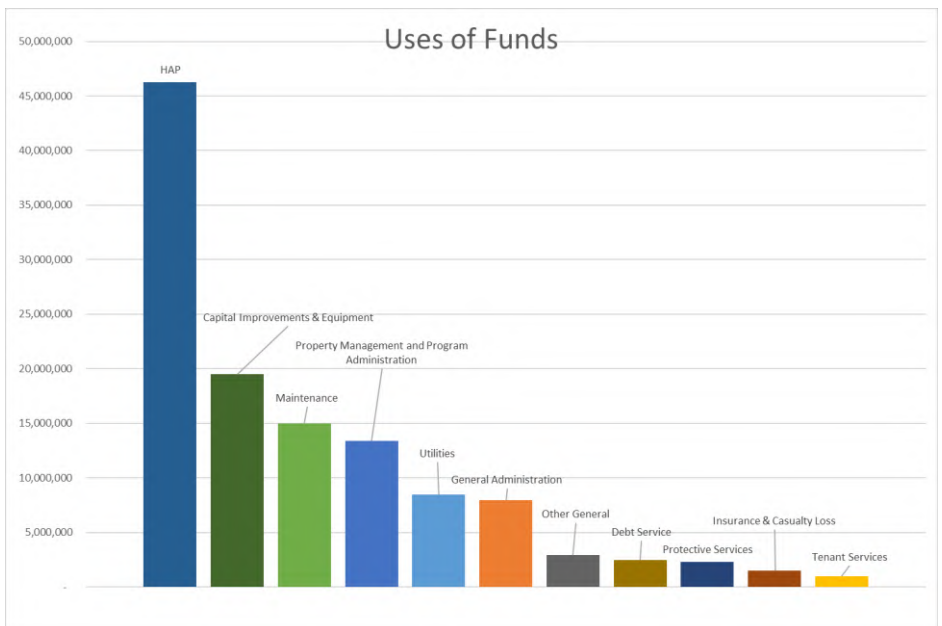
## MPHA Agency-wide Budget

The 2019 MPHA-wide budget has \$118 million in sources of funds. The highest percentage of funds (44 percent) comes from Section 8 HAP subsidy. Tenant Revenues and Rents encompass 18 percent of total sources. Federal subsidies and grants make up 78 percent of the overall sources of funds. The 2019 sources of funds are \$11 million more than the 2018 budget.



The 2019 MPHA-wide budget has \$120 million in uses of funds. The primary use of funds is for housing assistance payments to Section 8 property owners. Capital improvement expenditures are increased over the 2018 plan because of better-than-typical federal funding.

Budgeted reserves are projected to be \$23.5 million, with \$4 million set aside for future spending on asset redevelopment and repositioning. All agency reserves must be spent on “public purposes” and most are further limited by the grant



award. For example, \$1.8 million is limited to non-MTW Section 8 expenses and the \$3.1 million of reserves in the self-insurance fund are necessary to cover general liability risk to MPHA instead of purchasing commercial insurance.

The MTW Program is expected to have \$9.1 million of uncommitted reserves at the end of 2019. The MTW budget calls for almost \$91 million in routine MTW operating expenses, making the MTW reserve equivalent to 10% of routine annual spending (or just over one month). In comparison to just the public housing operating program, the uncommitted MTW reserve is 20% of projected operating and debt service costs (or 2.5 months).



Prudent fiscal management and HUD oversight dictate that MPHA maintain adequate reserves. Typical affordable housing underwriting standards require six months of operating and debt-service costs in reserves. HUD also evaluates the adequacy of a public housing project's reserves by comparing the reserve balance to the number of months of operating expenses it could cover. To receive the highest evaluation score, a public housing project must have at least four months of operating costs in its reserves.

The Central Office reserve is projected to end 2019 at \$5.2 million. This reserve has been used most recently for the analysis on MPHA's assets and the development of the asset preservation strategy behind the MPHA's Strategic Vision and Capital Plan. The reserve has the least amount of program restrictions, and can be used as needed across all programs.

Uses														
Property Management and Program Administration	7,976,000	3,224,000	10,000	319,000	11,529,000	440,000	850,000	-	-	-	222,000	315,000	-	13,356,000
General Administration	-	-	-	-	-	-	-	-	-	-	-	-	-	7,954,000
Fees	5,774,000	1,344,000	1,482,000	-	8,660,000	145,000	-	-	-	-	-	-	(8,745,000)	7,954,000
Tenant Services	850,000	-	-	16,000	866,000	-	100,000	-	-	-	-	-	-	966,000
Utilities	8,316,000	-	-	-	8,316,000	-	-	-	-	-	-	-	-	8,482,000
Maintenance	13,810,000	-	1,000,000	-	14,810,000	-	-	-	-	-	-	-	-	14,998,000
Protective Services	2,200,000	-	-	-	2,200,000	-	-	-	-	-	-	-	-	2,269,000
Insurance & Casualty Loss	1,377,000	17,000	-	-	1,394,000	2,000	-	-	-	-	-	-	-	1,463,000
Other General	2,500,000	-	-	-	2,500,000	-	-	200,000	-	-	-	-	-	2,902,000
Debt Service	2,445,000	-	-	-	2,445,000	-	-	-	-	-	-	-	-	2,445,000
HAP	-	41,155,000	-	-	41,155,000	5,121,000	-	-	-	-	-	-	-	46,276,000
Capital Improvements & Equipment	200,000	-	16,200,425	-	16,400,425	-	-	-	-	-	-	1,176,000	-	19,476,425
	Total Uses	45,448,000	45,740,000	18,692,425	335,000	110,215,425	5,708,000	950,000	200,000	1,701,000	8,846,000	222,000	1,491,000	(8,745,000) 120,388,425
Program Transfers In/(Out)	1,220,000	(4,315,000)	2,760,000	335,000	-	-	-	500,000	-	-	(500,000)	-	-	-

<sup>1</sup> Reserves are defined as Unrestricted Net Position

**(II) GENERAL OPERATING INFORMATION****ANNUAL MTW PLAN****A. HOUSING STOCK INFORMATION****i. Planned New Public Housing Units**

New public housing units that the MTW PHA anticipates will be added during the Plan Year.

ASSET MANAGEMENT PROJECT (AMP) NAME AND NUMBER	BEDROOM SIZE						TOTAL UNITS	POPULATION TYPE*	# of Uniform Federal Accessibility Standards (UFAS) Units	
	0/1	2	3	4	5	6+			Fully Accessible	Adaptable
MN002000002 AMP 2 Scattered Sites	0	4	12	0	0	0	16	Other	1	0
MN002000002 AMP 2 Scattered Sites			4				4	General	0	0

Total Public Housing Units to be Added in the Plan Year

20

\* Select "Population Type" from: General, Elderly, Disabled, Elderly/Disabled, Other

If "Population Type" is "Other" please describe:

The 16 units at Minnehaha Townhomes will be dedicated to homeless families with children. Up to four other units may be added if properties should become available to purchase during the plan year, although no specific units are identified at this time.

**ii. Planned Public Housing Units to be Removed**

Public housing units that the MTW PHA anticipates will be removed during the Plan Year.

AMP NAME AND NUMBER	NUMBER OF UNITS TO BE REMOVED	EXPLANATION FOR REMOVAL
MN002000009 AMP 9 MHOP	306	MPHA LIPH currently holds the ACC for 306 units that will be converted to PBV. These units were a result of the Hollman v. Cisneros Consent Decree and many are located outside the City of Minneapolis. Pending HUD approval, these units will be converted to PBV units to streamline operations and reduce administrative burden.

MN002000002 AMP 2 Scattered Sites	736	MPHA is considering applying for a Section 18 Demolition/Disposition for the entire scattered site portfolio. The distance between the sites, varied building types and systems, and other challenges with efficiency and effectiveness make it difficult to manage and sustain these units under the current public housing subsidy. The long-term trend of underfunding for public housing operations and maintenance is unlikely to reverse. Many of these older homes will also require more work in coming years than the vastly insufficient Public Housing Capital Fund can cover. Simply addressing the capital needs of our scattered site portfolio would consume 100 percent of MPHA's expected capital fund allocation for the next five years. The scattered site units are part of MPHA's Energy Performance Contract (EPC). MPHA plans to pay off the EPC portion of the debt associated with these units.
MN002000006 AMP 6 Cedars (Elliot Twins)	174	MPHA submitted a RAD application for the two Elliot Twins buildings. Built in 1961, they face a substantial capital need and present outstanding potential to create enhanced livability for residents and new community amenities, while preserving these highrise units for the long-term.

1,216

**Total Public Housing Units to be Removed in the Plan Year****iii. Planned New Project Based Vouchers**

Tenant-based vouchers that the MTW PHA anticipates project-basing for the first time during the Plan Year. These include only those in which at least an Agreement to enter into a Housing Assistance Payment (AHAP) will be in place by the end of the Plan Year. Indicate whether the unit is included in the Rental Assistance Demonstration (RAD).

PROPERTY NAME	NUMBER OF VOUCHERS TO BE PROJECT-BASED	RAD?	DESCRIPTION OF PROJECT
MN002000009 AMP 9 MHOP	306	No	MPHA LIPH currently holds the ACC for 106 units that will be converted to PBV. These units were a result of the Hollman v. Cisneros Consent Decree and many are located outside the City of Minneapolis. Pending HUD approval, these units will be converted to PBV units to streamline operations and reduce administrative burden.
MN002000002 AMP 2 Scattered Sites	736	No	MPHA is considering applying for a Section 18 Demolition/Disposition for the entire scattered site portfolio. If we move forward with this and the application is approved, all of the scattered sites would be transferred to Project-Based Vouchers.
MN002000006 AMP 6 Cedars (Elliot Twins)	174	Yes	MPHA submitted a RAD application for the Elliot Twins. If approved, these units will be transferred to Project-Based Vouchers.

1,216

**Planned Total Vouchers to be Newly Project-Based**

**iv. Planned Existing Project Based Vouchers**

Tenant-based vouchers that the MTW PHA is currently project-basing in the Plan Year. These include only those in which at least an AHAP is already in place at the beginning of the Plan Year. Indicate whether the unit is included in RAD.

PROPERTY NAME	NUMBER OF PROJECT-BASED VOUCHERS	PLANNED STATUS AT END OF PLAN YEAR*	RAD?	DESCRIPTION OF PROJECT
Archdale	13	Leased/Issued	No	Serves homeless youth
Armadillo Flats - 2727	4	Leased/Issued	No	Serves low-income people
Armadillo Flats - 2743	4	Leased/Issued	No	Serves low-income people
Barrington	3	Leased/Issued	No	Serves low to moderate income
Bottineau Lofts	9	Leased/Issued	No	Serves low-income people
Boulevard	6	Leased/Issued	No	Serves low-income people
Catholic Eldercare	24	Leased/Issued	No	Assisted living facility for elderly
Central Ave Apts	61	Leased/Issued	No	Serves low-income people
Central Ave Lofts	8	Leased/Issued	No	Serves low-income people
Clare Apts	28	Leased/Issued	No	Serves single adults who have
Collaborative Village	16	Leased/Issued	No	Serves homeless individuals and families
Creekside Commons	6	Leased/Issued	No	Serves low-income people
Emanuel Housing	6	Leased/Issued	No	Serves Veterans
Families Moving Forward	12	Leased/Issued	No	Serves homeless individuals and families
Franklin Portland	7	Leased/Issued	No	Serves low-income people
Hiawatha Commons	20	Leased/Issued	No	Serves low-income people
Jeremiah	18	Leased/Issued	No	Serves low-income single women
Journey Homes	12	Leased/Issued	No	Supportive services for disabled,
Lamoreaux	13	Leased/Issued	No	Serves homeless individuals
Lindquist	24	Leased/Issued	No	Serves low-income people
Lonoke	4	Leased/Issued	No	Serves low-income people
Loring Towers	43	Leased/Issued	No	Serves low-income people
Lydia	40	Leased/Issued	No	Serves disabled homeless
Many Rivers East	7	Leased/Issued	No	Serves low-income people
Many Rivers West	3	Leased/Issued	No	Serves low-income people
MN Indian Women's Resource Center	13	Leased/Issued	No	Serves homeless, Native American families
Park Plaza (phase I)	16	Leased/Issued	No	Serves low-income people
Park Plaza (phase II)	12	Leased/Issued	No	Serves low-income people
Park Plaza (phase III)	48	Leased/Issued	No	Serves low-income people
Passage	10	Leased/Issued	No	Serves low-income single women
Phillips Family	28	Leased/Issued	No	Serves low-income people
Phillips Redesign	4	Leased/Issued	No	Serves low-income people
Pinecliff	7	Leased/Issued	No	Serves low-income people
Portland Village	24	Leased/Issued	No	Serves homeless families with a disabled adult member
PPL Foreclosure	21	Leased/Issued	No	Serves low-income people
PPL Fourth Ave	6	Leased/Issued	No	Serves low-income people
River Runs	16	Leased/Issued	No	Serves low-income people
The Rose	15	Leased/Issued	No	Serves low-income people



Spirit on Lake	5	Leased/Issued	No	Serves low-income people
St. Anthony Mills	17	Leased/Issued	No	Serves low-income people
St. Barnabas	39	Leased/Issued	No	Serves homeless and at-risk youth
Trinity Gateway	16	Leased/Issued	No	Serves low-income people
Tubman	10	Leased/Issued	No	Serves single women with or without children
West River Gateway	12	Leased/Issued	No	Serves low-income people
Downtown View	25	Leased/Issued	No	Serves homeless youth
Lutheran Social Services	12	Committed	No	Serves homeless families
Great River Landing	40	Committed	No	Serves men coming out of prison

787

**Planned Total Existing Project-Based Vouchers**

\* Select "Planned Status at the End of Plan Year" from: Committed, Leased/Issued

**v. Planned Other Changes to MTW Housing Stock Anticipated During the Plan Year**

Examples of the types of other changes can include (but are not limited to): units held off-line due to relocation or substantial rehabilitation, local, non-traditional units to be acquired/developed, etc.

<b>PLANNED OTHER CHANGES TO MTW HOUSING STOCK ANTICIPATED IN THE PLAN YEAR</b>
MPHA will seek funding for developing new or purchasing existing structures as opportunities arise to add units to our portfolio. Funding sources for any such opportunities could include the Minnesota Housing Finance Agency, City of Minneapolis, Hennepin County, and other funders.
MPHA is exploring the construction of new ultra-energy-efficient units as pilots that may lead to many more such projects in future years. We are considering both single-family and multiunit designs (such as a four-plex).
MPHA is considering disposition and/or redevelopment of non-dwelling properties as well. This includes the potential disposition of a warehouse facility located at 1301 Bryant Avenue North, the redevelopment of its headquarters property at 1001 Washington Avenue North, and two possible dispositions of vacant land: the Heritage Park Phase III and IV parcels located south of Olson Highway and the 4.3 acre 555 Girard Terrace site. Although there are no specific plans for any of these properties, MPHA has begun considering various options for these sites and will continue studying them into 2019.

**vi. General Description of All Planned Capital Expenditures During the Plan Year**

Narrative general description of all planned capital expenditures of MTW funds during the Plan Year.

<b>GENERAL DESCRIPTION OF ALL PLANNED CAPITAL EXPENDITURES DURING THE PLAN YEAR</b>
MPHA's 2019 Capital Fund Program (CFP) plan is based on a projected funding level of \$14.8 million. Activities that were initiated under previous funding cycles but not fully completed will carry over and incur expenditures in 2019. Additionally, a portion of the activities slated for 2019's \$14.8 million budget will not be fully expended in 2019 and will carry into 2020. This expenditure schedule is based on the assumption of receiving the Capital Fund grant by the end of March 2019. Expenditures may vary significantly if grant awards are delayed. MPHA has estimated approximately \$18.7 million in capital expenditures for FY2019 targeted at specific projects in six of its seven Asset Management Projects (AMPs). Included in the \$18.7 million Capital Funds expenditures are piping replacement, fire alarm upgrades, building envelope upgrades, elevator modernization, and apartment improvements in our highrise developments focusing on AMPs 3, 4, 5, 6, and 7. Details of this activity can be seen in Appendix F. In performing its capital work, MPHA adheres to Federal, State and Local code and regulatory processes.

**B. LEASING INFORMATION****i. Planned Number of Households Served**

Snapshot and unit month information on the number of households the MTW PHA plans to serve at the end of the Plan Year.

PLANNED NUMBER OF HOUSEHOLDS SERVED THROUGH:	PLANNED NUMBER OF UNIT MONTHS OCCUPIED/LEASED*	PLANNED NUMBER OF HOUSEHOLDS TO BE SERVED**
MTW Public Housing Units Leased	75,132	6,261
MTW Housing Choice Vouchers (HCV) Utilized	54,108	4,509
Local, Non-Traditional: Tenant-Based^	0	0
Local, Non-Traditional: Property-Based^	480	40
Local, Non-Traditional: Homeownership^	144	13
<b>Planned Total Households Served</b>	<b>129,864</b>	<b>10,823</b>

\* "Planned Number of Unit Months Occupied/Leased" is the total number of months the MTW PHA plans to have leased/occupied in each category throughout the full Plan Year.

\*\* "Planned Number of Households to be Served" is calculated by dividing the "Planned Number of Unit Months Occupied/Leased" by the number of months in the Plan Year.

^ In instances when a local, non-traditional program provides a certain subsidy level but does not specify a number of units/households to be served, the MTW PHA should estimate the number of households to be served.

LOCAL, NON-TRADITIONAL CATEGORY	MTW ACTIVITY NAME/NUMBER	PLANNED NUMBER OF UNIT MONTHS OCCUPIED/LEASED*	PLANNED NUMBER OF HOUSEHOLDS TO BE SERVED*
Tenant-Based			
Property-Based	2016-2 Reintegration of Offenders	480	40
Homeownership	2010-4 Lease-To-Own Initiative	144	13

\* The sum of the figures provided should match the totals provided for each local, non-traditional categories in the previous table. Figures should be given by individual activity. Multiple entries may be made for each category if applicable.

**ii. Discussion of Any Anticipated Issues/Possible Solutions Related to Leasing**

Discussions of any anticipated issues and solutions in the MTW housing programs listed.

HOUSING PROGRAM	DESCRIPTION OF ANTICIPATED LEASING ISSUES AND POSSIBLE SOLUTIONS
MTW Public Housing	None
MTW Housing Choice Voucher	Minneapolis has a tight rental market with a vacancy rate of less than 3%. MPHA's efforts include investing in dedicated resident mobility and owner outreach positions to create new housing opportunities, completing a study of our local rental market, and launching an incentive fund for property owners.
Local, Non-Traditional	The Local, Non-Traditional Homeownership number of planned number of unit months occupied/leased is based on assuming that two of the residents of the Lease-To-Own program will purchase their homes approximately halfway through 2019. Using MTW flexibility, MPHA will continue conversations in 2019 to create other flexible subsidies that can be tailored to the needs of families, the priorities of the community, and the experience of our non-profit partners.

**C. WAITING LIST INFORMATION****i. Waiting List Information Anticipated**

Snapshot information of waiting list data as anticipated at the beginning of the Plan Year. The “Description” column should detail the structure of the waiting list and the population(s) served.

WAITING LIST NAME	DESCRIPTION	NUMBER OF HOUSEHOLDS ON WAITING LIST	WAITING LIST OPEN, PARTIALLY OPEN OR CLOSED	PLANS TO OPEN THE WAITING LIST DURING THE PLAN YEAR
Public Housing Elderly/Disabled	Disabled persons between the ages of 18 and 49, Near-Elderly and Elderly persons age 50 or over	8,133	Open	Yes
Public Housing Family	Families with at least one dependent	8,931	Partially Open (open for 2, 4, & 5-bedroom units)	Yes
Housing Choice Voucher Program	All households who applied	495	Closed	Yes

Please describe any duplication of applicants across waiting lists:

Families and individuals can apply to multiple lists if they meet the eligibility criteria.

**ii. Planned Changes to Waiting List in the Plan Year**

Please describe any anticipated changes to the organizational structure or policies of the waiting list(s), including any opening or closing of a waiting list, during the Plan Year.

WAITING LIST NAME	DESCRIPTION OF PLANNED CHANGES TO WAITING LIST
Housing Choice Voucher Program	This waiting list may be opened in 2019.

### **III. Proposed MTW Activities**

2019 – 1: Transition from Current-Form DOT to LURA to Preserve Public Housing

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## **Replace Form of Declaration of Trust (DOT) with Land Use Restriction Agreement (LURA) to Preserve Public Housing (2019 – 1)**

**Statutory Objective:** Cost-effectiveness, Housing Choice

### **Description/Update:**

The exponential growth in capital needs against current and anticipated funding threatens MPHA's ability to responsibly address needs and preserve its portfolio. For certain properties, MPHA will replace the form of Declaration of Trust (DOT) that inhibits the agency's ability to leverage needed capital investment, with a Land Use Restriction Agreement (LURA). This action should help MPHA leverage funds locally and move forward with revitalization of its properties. We will do this while maintaining the long-term affordability of this housing for very low-income families via the LURA.

MPHA has rolled out a Strategic Vision and Capital Plan featuring multiple strategies for preserving its portfolio, including RAD and Section 18. The strategy enabled by this activity may be appropriate in a limited number of cases where these programs are infeasible or undesirable. The replacement of the form of DOT with a LURA should enable MPHA to leverage funds that are not forthcoming from Congress and move forward with preservation activities. In contrast to the DOT, the LURA is a proven tool that is well understood by potential partners.

This initiative will contribute to HUD's emphasis on preservation and capital investment by facilitating that investment while fully protecting current and future residents. Further, it will establish procedural steps and generate insights that will benefit HUD, MPHA, and other PHAs with a similar desire to preserve their portfolios in the future. The proposed form of LURA that MPHA has submitted to HUD for approval would continue to apply applicable public housing requirements to the properties, as modified by any applicable HUD-approved MTW-related changes.

### **Anticipated Impact:**

Use of the LURA will allow MPHA to leverage additional funds to compensate for severe underfunding of its capital needs.

### **Anticipated Schedule:**

MPHA staff will report to the MPHA Board of Commissioners a comprehensive assessment of its property needs and values. MPHA will use this information to determine which properties might be appropriate for this approach. Any such properties will be listed in the agency's MTW Annual Plan or an Amendment to its MTW Annual Plan and, after Plan approval, submitted to HUD for approval of the replacement of the form of DOT with the LURA in connection with specific properties. In the initial year of implementation, MPHA projects applying the activity to no more than 50 units.



**Authorizations:**

HUD staff is considering whether HUD can agree to the replacement of the form of DOT with a LURA along the lines described above under applicable regulations, notably 24 CFR 905.700, “Other security interests” and if necessary 24 CFR 905.108 (definition of “Declaration of Trust”, which such a LURA would meet) and 24 CFR 905.318 (requirement to maintain Declaration of Trust). If HUD determines that HUD can do so, MPHA will be able to use such a HUD-approved LURA and this Activity 2019–1 will become unnecessary and will not be implemented. If HUD determines the activity is necessary, HUD and MPHA agree to execute a Community-Specific Authorization that will support the activity.

**HUD Standard Metrics (source: internal agency data)**

<b><i>CE#4: Increase in Resources Leveraged</i></b>				
<b>Unit of Measurement</b>	<b>Baseline</b>	<b>Benchmark</b>	<b>Outcome</b>	<b>Benchmark Achieved?</b>
Amount of funds leveraged in dollars (increase).	0	TBD*	TBD	

\* Implementation pending

<b><i>HC#2: Units of Housing Preserved</i></b>				
<b>Unit of Measurement</b>	<b>Baseline</b>	<b>Benchmark</b>	<b>Outcome</b>	<b>Benchmark Achieved?</b>
Number of housing units preserved for households at or below 80 percent of AMI that would otherwise not be available (increase). If units reach a specific type of household, give that type in this box.	0	TBD*	TBD	

\* Implementation pending

## IV. Approved MTW Activities

### Implemented Activities

	<i>Approved</i>	<i>Implemented</i>
Asset Verification	2018	2018
Biennial Income Recertification (Public Housing)	2018	2018
Conversion of 312 Mixed-Financed PH Units to PBV	2010	2018
Conversion of Subsidy and Capital for MHOP Units	2018	2018
Goal-Oriented Housing Initiative	2018	2018
HCV Mobility Voucher Program	2009	2010
HCV Rent Reform	2014	2014
Lease-to-Own Initiative	2010	2012
Local Project-Based Voucher Program	2018	2018
Low-Rent Annual to Three-Year Certifications	2009	2010
Minimum Rent Initiative for Public Housing Residents	2010	2011
Permanent Supportive Housing for Youth	2016	2016
Property Owners Incentive Program	2018	2018
Public Housing Working Family Incentive	2010	2011
Reintegration of Offenders	2016	2017
Shelter to Home – Project-Based Vouchers	2016	2016
Shelter to Home – Public Housing	2015	2017
Soft-Subsidy Initiative	2011	2013
Targeted Project-Based Initiative	2011	2012

### Activities Not Yet Implemented

#### Activities On-Hold

	<i>Approved</i>	<i>Implemented</i>	<i>On-Hold/Closed</i>
Alternate Income Verifications	2013		2017
Public Housing Earned Income Disregard	2009	2010	2017

#### Closed-Out Activities

Absence from Unit Initiative	2011	2011	2017
Biennial HQS Inspections	2012	2012	2014
Block Grant & Fungible Use of MPHA Resources	2009	2009	2017
Combine Homeownership Programs	2009	2009	2012
Earned Income Disallowance Simplification – HCV	2012	2012	2016
Foreclosure Stabilization PBV Demonstration Program	2010	2011	2017
MPHA/Hennepin County Transitional Housing	2013	2014	2016
Public Housing Self-Sufficiency Program	2009	2009	2012

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The MPHA MTW Annual Plan and activities therein are approved, authorized, and implemented in accordance with the MTW Demonstration Program's enabling laws and related regulations, and the terms and conditions of its Amended and Restated MTW Agreement with the Department of Housing and Urban Development. MPHA's MTW Agreement governs and supersedes, as appropriate, applicable Federal laws, rules, regulations, contracts, and agreements that have been or will be waived and/or modified by the MTW Agreement.

## A. IMPLEMENTED ACTIVITIES

### Asset Verification (Activity 2018 – 4)

Approved and implemented, 2018

**Description/Update:**

MPHA modified the definition of annual income to exclude income from assets valued at \$50,000 or less. In cases where household assets are valued at more than \$50,000, MPHA calculates and counts only the imputed income from assets by using the market value of the asset and multiplying it by the MPHA-established Passbook Savings Rate. MPHA will only seek third party verification for assets valued at more than \$50,000. By eliminating a time-consuming process that has shown only a marginal positive impact on MPHA revenues, MPHA anticipates this change will save the agency time and overall allow more cost-effective utilization of its resources.

In 2018, MPHA began phasing this change in at each scheduled or interim rent redetermination. At this pace, it will be fully implemented in three years.

**Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)**

MPHA does not plan any changes to this activity in the plan year.

## **Biennial Income Recertification for Public Housing (2018 – 3)**

Approved and implemented, 2018

### **Description/Update:**

This initiative changed income certification of non-elderly, non-disabled families to every other year, rather than annually. (MPHA already certified families who are elderly or disabled, and who are on a fixed income, every three years.) Residents may still request interim recertifications, per our existing policy, and/or utilize a hardship policy if they believe they are adversely affected by the biannual schedule. The change is intended to save the agency time and allow more cost-effective utilization of its resources. This activity will reduce the number of annuals done per Eligibility Technician (ET), allowing the ET's to follow up on long-term minimum-rent payers and interim recertification requests. By allowing residents to retain more earnings in the near term, we also anticipate that the change may encourage modest increases in earned income by public housing residents, contributing to greater self-sufficiency.

Beginning in 2018, MPHA has begun phasing in the implementation of this initiative at each new, interim, or recertification, which will result in full implementation by the end of 2019. We estimate 850 residents will benefit from this MPHA activity annually.

### **Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)**

MPHA does not plan any changes to this activity in the plan year.

## **Conversion of Mixed-Finance Public Housing Units to PBV (2010 – 3)**

Approved in 2010, Implemented in 2019

### **Description/Update**

MPHA proposed to use MTW authority and the voluntary conversion or disposition process to convert 306 mixed-finance public housing units that MPHA neither owns nor manages (collectively known as the Metropolitan Housing Opportunity Program, or MHOP) to secure new Section 8 Housing Choice Vouchers and then project base these units in the same mixed-finance development. MPHA anticipated this initiative would significantly reduce the administrative burden for MPHA and property owners/managers. Families housed in the new project-based units would have access to a Housing Choice Voucher after one year of residency and would be able to increase their housing choices. MPHA applied to the RAD program and received a Commitment to Enter into a Housing Assistance Payments Contract (CHAP) in 2014 for conversion of the 200 mixed-finance units at Heritage Park. However, the CHAP expired and MPHA is exploring how to implement the conversion for Heritage Park and the other MHOP units via RAD or another yet-to-be-determined method.

MPHA continues to research and explore the options available to us to move forward on this activity. In 2017 we began negotiations with the current owner and manager of Heritage Park to determine the future ownership and management of those units. The outcome of that process could have some impact upon this activity. We are closely watching policy developments at HUD and in Congress around RAD and other yet-to-be-determined paths for conversion. In the meantime, these 306 units continue to provide much-needed housing for families from our public housing waitlist. As we work with HUD to operationalize the process approved under a separate activity, 2018 – 6, this may address a subset of the units covered under this activity, leaving only the 200 units at Heritage Park.

This activity was previously designated “Not Yet Implemented.” Given that we began work on Activity 2018 – 6 as described in the prior paragraph, we have updated this activity’s designation to “Implemented.”

### **Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)**

MPHA does not plan any changes to this activity in the plan year.



## **Conversion of Public Housing Operating Subsidy and Capital Funds for MHOP Units to Housing Choice Voucher Funding (2018 - 5)**

Approved and implemented, 2018

### **Description/Update**

MPHA holds the ACC for 106 units of public housing in 16 different cities in the Metropolitan Housing Opportunity Program (MHOP). MPHA neither owns nor manages these units. These units were created under the *Hollman v. Cisneros* Settlement Agreement and are located outside MPHA's jurisdiction. The process of managing and operating public housing has proven onerous for property owners who are more comfortable and familiar with the HCV program. These entities have significant staff turnover and MPHA must provide considerable time, resources, and support to continually train providers related to HUD public housing requirements.

By converting these units to PBVs, tenants, owners, and MPHA will receive the rewards of increased cost-effectiveness. HUD currently has a process for this transfer of funds under the RAD program. However, the small number of units (4 -13 units per property) across 16 different entities is not conducive to a RAD and/or Voluntary Conversions where there are extensive costs related to such conversions. Under this approved MTW activity, MPHA will work with HUD to operationalize the transfer of the Public Housing Operating Subsidy and Capital Funds for this AMP to MPHA's Section 8 funding. MPHA will then allocate those funds to the properties through a PBV process. We neither intend nor anticipate any disruption to residents, including temporary or permanent displacement as a result of the process.

MPHA anticipates beginning discussions with HUD in 2019 to determine how to operationalize the transfers under this mechanism. Note that this activity is similar, but not identical, to activity 2010 – 3, which includes an additional 200 units at Heritage Park.

### **Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)**

MPHA does not plan any changes to this activity in the plan year.

## Goal-Oriented (GO!) Housing Initiative (2018 – 2)

Approved and implemented, 2018

### Description/Update:

GO! Housing encompasses an agency-wide effort to use specific participation goals and incentives that encourage families to take part in education, training, and/or employment opportunities. MPHA will use flexible voucher subsidies and rent incentives to public housing families, including workforce housing opportunities tied to services and supports provided by partner organizations. Partners will commit to provide services and supports to MPHA public housing residents and HCV participants and coordinate with MPHA on establishing success measures.

Participation in GO! Housing programs will be voluntary. MPHA anticipates targeting GO! Housing initiatives to subgroups of those we serve who are in the best position to benefit from it. Examples may include:

- Strategically identify existing public housing units located in areas close to services, supports and employment opportunities of partners. The units can be reserved for public housing families who commit to the program. MPHA may work with various partners to set aside public housing units near education and training centers that will be reserved for participants in programs offered by the partner organization.
- Establish specific program participation requirements tied to partner programs and supports as well as other requirements necessary to demonstrate progress in meeting program goals.
- Explore creation of a workforce housing development at MPHA properties and/or create a new workforce development in concert with MPHA partners.
- Offer priority for participation in this program to the 500+ HCV families with children whose Head of Households are neither elderly nor disabled and who have no earned income.
- Create expanded - flexible voucher subsidy allocations that can respond to specific participant and possible partner needs that incentivize participation by HCV holders (these subsidies may be tailored to the individual needs of the participant).
- Explore home ownership vouchers as incentives.
- Consider setting aside and/or converting vouchers to sponsor-based vouchers to better coordinate with partner programs and services.
- Make available local project-based vouchers targeted at developments near partner services and supports.

Program elements include:

A. Partnerships with:

- Schools – pre, elementary and middle, secondary and post- secondary
- Supportive services providers
- Vocational skills providers
- Employment providers

B. Tenant/participant savings initiatives

C. Special incentives, including:

- Priority for flexible vouchers for successful graduates who secure a job in area that requires a move
- Rent reductions/income disregards for employment, childcare and/or education and training support
- Parent rewards for participating in school (family conferences, PTO activities or other school-family initiatives)

Specific program guidelines, training opportunities, and participant incentives will arise from conversations with service-provider partners and market research to understand the needs of potential participants.

In 2019, we expect the first partnership to unfold under the GO! Housing authorizations will be a joint initiative called “Stable Homes, Stable Schools,” with the City of Minneapolis and the Minneapolis Public Schools (MPS). Nearly one in ten elementary students in the MPS system experiences homelessness—a state of affairs with long-term effects on the well-being of children and concentrations of poverty. MPHA will provide local vouchers to families of homeless students at 15 schools where the challenge is greatest. Pending funding from the city, we expect to begin offering these special-purpose, local, education-linked vouchers in 2019 to low-income families identified by MPS as currently homeless or in danger of becoming so. The families served will depend upon city funding that will be unknown until the end of 2018.

The “Stable Homes, Stable Schools” program will be administered by MPHA. As proposed, the city will contribute 60 percent of the rental assistance, and MPHA the remainder. Hennepin County and social service non-profits will provide housing search assistance and a web of on-going supports. Parents commit to engagement in their child’s education through their school, and to create a Family Success Plan with a case manager. Local foundations may provide other supports, including a housing stabilization fund, while MPHA will work with third-party researchers to monitor outcomes and program success.

**Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)**

MPHA does not plan any changes to this activity in the plan year.

## HCV Mobility Voucher Program (2009 – 6)

Approved in 2009, Implemented in 2010

### Description/Update

MPHA created a Mobility Voucher program to encourage low-income families to move to communities of greater opportunity that are not impacted by concentrated poverty or race and to find safe, decent and affordable housing in an environment conducive to breaking the cycle of poverty. This initiative responds to HUD's goal of deconcentrating families who live in poverty and Affirmatively Furthering Fair Housing.

The program is structured to increase housing choices for families on the MPHA Section 8 Waiting List and current program participants who live in Areas of Concentrated Poverty (ACP) and Racially Concentrated Areas of Poverty (RCAP), and who are willing to move into non-concentrated areas (also referred to as "areas of opportunity"). MPHA has created an appendix to its Section 8 Administrative Plan that details the specific elements of this initiative (including definitions of ACPs and RCAPs).

We serve families under the Mobility Program by a) offering incentives and enhanced support to help families find and keep homes in areas of opportunity within the City of Minneapolis, and b) allowing participant families to lease a unit outside the City of Minneapolis, provided the unit is located in an area of opportunity. Families who lease in another metro area housing authority's jurisdiction must continue with MPHA case management services to remain eligible for the Mobility Program. Mobility families who port-out cannot be absorbed during the three years they are under the Contract of Participation. In 2015, the Mobility Voucher Program was redesigned to offer material incentives to the program such as security deposit assistance, application fee assistance, higher payment standards, three 31-day bus cards, and moving assistance.

In late 2016, MPHA hired a Mobility Community Services Coordinator and the program is growing. In 2017, MPHA began implementing a number of strategies recommended by a report from the Family Housing Fund, *Enhancements and Best Practices Designed to Expand Resident Choice and Mobility in Minneapolis*. In 2019, MPHA will also continue to expand the program. We have completed a rent study to better understand rental trends in the Minneapolis marketplace and inform data-driven decisions on where to adjust our payment standards. MPHA will implement these area rents in ways that allow families to stretch their voucher further, living where they can maximize their chances for success and the success of their children.

### Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)

MPHA does not plan any changes to this activity in the plan year.

## HCV RENT REFORM INITIATIVE (2014 – 1)

Approved and Implemented in 2014

### Description/Update

The goal of rent reform was to streamline and simplify the rental subsidy determination and recertification processes, promoting self-sufficiency for HCV participants while saving costs and allowing us to more serve more families from our waitlist. With the advent of federal sequestration in 2013, the focus shifted to maintaining assistance for all current families within a severely decreased budget.

MPHA's HCV rent reform initiative consists of the following:

- a) **Flat Subsidy:** MPHA replaced the standard rent calculation method with a simplified, flat subsidy model which incorporates consideration for tenant paid utilities. MPHA determines the subsidy paid to the owner on behalf of the family by using a flat subsidy amount based on household income and bedroom size. In instances where the applicable subsidy is greater than the contract rent, MPHA will cap the subsidy at the contract rent amount, minus the minimum rent. We aspire to present the HAP amounts in a way that gives families a clear understanding of how much they will receive, allowing them to make a more informed decision of where they could move.
- b) **Minimum Rent:** As part of the flat subsidy model, MPHA revised the application of minimum rent policies. When establishing the flat subsidy tables, MPHA structured the minimum rent into the tables. If a participant's calculated rent amount is less than the minimum rent amount, the participant pays the minimum rent to the owner. Families in project-based units which receive funding from HUD's Community Planning and Development department through the Supportive Housing Program (SHP) or the Housing Opportunities for Persons with AIDS (HOPWA) program are exempt from MTW minimum rent and all other aspects of HCV rent reform.
- c) **40 Percent Affordability Cap:** MPHA eliminated the 40 percent affordability cap because under rent reform affordability becomes the responsibility of the family. We will not approve a Request for Tenancy Approval (RFTA) if a participant's rent portion exceeds 50 percent of their monthly adjusted income without supervisory review and approval.
- d) **Revised Asset Income Calculation and Verification Policies:** MPHA revised existing policies on asset verification and calculation. When the market value of a family's assets is below an established asset threshold, MPHA will exclude income from these assets. When the total asset market value is greater than the established threshold, MPHA will calculate asset income by multiplying the asset's market value by the applicable passbook savings rate. MPHA will allow HCV households to self-certify assets in all instances when the market value of the household's total assets is below the established threshold.
- e) **Interim Re-examinations:** MPHA made changes to the interim re-examination policy. MPHA limits HCV families to one discretionary interim re-examination between regular annual recertifications. Between annual recertifications, household members who are



employed are not required to report increases in earned income. And for household members who are not employed, they must report any subsequent employment. Increases in unearned income for any household member and changes in household composition must still be reported.

- f) **Working Family Incentive and Streamlined Deductions and Exclusions:** As part of MPHA's revisions to the standard rent calculation method, MPHA streamlined deductions and exclusions. MPHA has eliminated childcare, medical expenses, and dependent deductions from the calculation of adjusted income. To lessen the impact of removing the childcare and dependent deductions, MPHA continued to administer the Working Family Incentive (a 15% exclusion of earned income for families with minor children). To offset the impact of removing medical expense deductions, MPHA increased the standard elderly/disabled deduction. MPHA is excluding 100 percent of income for adult, full-time students (other than the head of household, co-head or spouse). MPHA has phased out its MTW HCV Earned-Income Disregard activity in light of rent reform (families in the program were grandfathered into the change).
- g) **Changes in Fair Market Rents (FMRs):** MPHA reviews HUD's Fair Market Rents annually and may conduct a research and market analysis on local rents in updating the subsidy tables. MPHA waived the requirement that the agency conduct reasonable rent determinations on all HCV units when there is a five percent year-over-year decrease in the FMR in effect 60 days before the contract anniversary. MPHA conducts reasonable rent determinations at the time of initial lease-up, at the time of owner rent increases, and at all other times deemed appropriate by MPHA.
- h) **Flat Subsidy Reasonable Accommodation:** As a reasonable accommodation for individuals with qualifying disabilities, MPHA may provide a higher subsidy for accessible units.
- i) **Portability:** MPHA revised the portability policies. Participants are approved to port-out of Minneapolis only for reasons related to employment, education, safety, medical/disability, VAWA, housing affordability, or to move into an Area of Opportunity within the seven-county Twin Cities Metropolitan Area. Families who are denied portability have the right to request an informal hearing.
- j) **Mixed Families:** For families with mixed immigration status, MPHA will deduct 10% from the flat subsidy amount. This 10% deduction is a flat deduction from the subsidy amount, regardless of the number of ineligible family members in the household.

#### **Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)**

MPHA does not plan any changes to this activity in the plan year.

## **Lease-To-Own Initiative (2010 – 4)**

Approved in 2010, Implemented in 2012

### **Description/Update**

MPHA utilized funds from its American Recovery and Reinvestment Act grant to purchase 20 townhome units (the “Sumnerfield Townhomes”) for the creation of a Lease-to-Own initiative. MPHA’s initial target audience for this initiative was qualified public housing residents, Housing Choice Voucher participants, families on MPHA’s waiting lists, and MPHA and City of Minneapolis employees who qualify for public housing. MPHA later broadened the eligibility to include other low-income, first-time homebuyers.

Participants rent these units as public housing residents, with a requirement to purchase within five years. MPHA offers advantageous terms for families that close within two years. MPHA works with participants on achieving the homeownership goal, although participants are ultimately responsible for achieving mortgage-readiness and securing financing within five years. MPHA escrows a portion of each month’s rent (as a contribution toward a down-payment) and matches up to \$1,500 in documented personal savings. Most participants will undergo homeownership counseling as a component of their loan.

MPHA has sold seven units of the original 20. MPHA believes that closing on the remaining units will take longer. In 2019, MPHA expects to have completed a thorough review of the program including the selection criteria, case management, and homeownership counseling to contribute to successful outcomes for families. These may lead to updates to the program’s supporting procedures and documents, although not to changes in the underlying activity.

### **Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)**

MPHA does not plan any changes to this activity in the plan year.

## Local Project-Based Voucher Program (2018 – 6)

Approved and implemented, 2018

### Description/Update:

Pursuant to Attachment C Section 7 of the Amended and Restated Moving to Work Agreement, MPHA will adopt its own local MTW Section 8 Project-Based Program. This includes the following:

- Project-basing Section 8 assistance at properties owned directly or indirectly by the Agency that are not public housing, subject to HUD's requirements regarding subsidy layering.
- Adopting a reasonable competitive process or utilize an existing local competitive process for project-basing leased housing assistance at units that meet existing Housing Quality Standards, or any standards developed by the Agency.
- Substitute a Letter of Commitment, MOU or other pre-issuance of a HAP action that is sufficient to move the development forward.
- Modifying HUD's HAP Agreement to include MTW approved related actions.

Over time, MPHA's initiative will work towards adopting the option of owner-managed, site-based waiting lists (SBWL) for its project-based developments. Owners will be required to develop and obtain MPHA approval on tenant selection plans, including establishing guidelines for selection from the waiting list, screening and transfers. MPHA will provide current HCV waiting list applicants an opportunity to apply to PB SBWLs before opening the SBWL to others.

The first development realized under this initiative is the launch of MPHA's open-ended PBV Request for Proposals (RFP). The RFP was developed and launched in 2018. Through the RFP, intend to strategically place up to 400 vouchers—Housing Choice, veterans (VASH), and non-elderly disabled ("mainstream")—in ways that align with the values and needs of the community, while achieving maximum return in creating additional affordable housing.

### Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)

MPHA does not plan any changes to this activity in the plan year.

## **Low-Rent Annual to Three-Year Certifications (2009 – 2)**

Approved in 2009, Implemented in 2012

### **Description/Update**

MPHA recertifies every three years (instead of annually) elderly, disabled or other public housing residents who are on a fixed income and whose sources of income are not likely to change for extended periods of time. MPHA anticipates this change would save the agency time and allow better utilization of its resources and believes this change also provides a significant benefit to its residents. MPHA has maintained its policy of reporting changes in income.

This activity has the highest impact on our highrise residents. Changing the annuals to every three years for Elderly and Disabled and residents with a stable income has allowed staff to concentrate their efforts on residents where the rent change will have a greater impact on the rental income for the agency. MPHA runs HUD Enterprise Income Verification (EIV) reports every three months for our minimum renters and continues to run the EIV reports for tenants who are not required to do their annual certification in the current year.

MPHA continues interim recertifications for any household that is required to be recertified or who requests recertification due to a change in circumstances. MPHA continues its experience of saving hours related to recertification, as well as significant other time related to setting up appointments, following through on verifications, and other tasks that are related impacts of this process.

### **Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)**

MPHA plans no changes to this activity in the plan year.

## **Minimum Rent Initiative for Public Housing Residents (2010 – 2)**

Approved in 2010 and Implemented in 2011

### **Description/Update**

Tenants moving into public housing whose calculated rent is less than the minimum rent, pay the minimum rent that is in effect at the time of lease-up. This initiative increased the minimum rent of existing tenants at the first annual or interim re-exam after implementation. The initiative was implemented to promote self-sufficiency and increase rental income.

### **Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)**

MPHA does not plan any changes to the activity in the plan year.

## **Permanent Supportive Housing for Youth (2016 – 3)**

Approved in 2016, Implemented in 2016

### **Description/Update**

The City of Minneapolis has a significant need for permanent supportive housing for homeless youth. Two local partners, Project for Pride in Living (PPL) and YouthLink, worked together to build a new facility to provide supportive housing for 46 homeless youth (ages 18-23). MPHA has committed 25 project-based vouchers for a period of 20 years. The facility, called “Downtown View,” opened in February 2018 and is fully operational.

YouthLink and PPL provide educational support, job training, and other supportive services. These services are led by a program supervisor, responsible for overall service delivery and outcomes. Other key personnel include a resident advisor who lives on-site and troubleshoots crises that may occur outside of typical office hours, and case managers who help young people connect to community and Youth Opportunity Center resources based on individual aspirations and life goals. Case managers also help them navigate the often-difficult system of community-based adult services such as education, employment, and independent housing.

Youth pay 30% of their incomes toward their housing and (if allowable under the various funding supports) a minimum rent of \$75 per month. The youth served come to the program via the Hennepin County Coordinated Entry system for sheltering the homeless, with intake administered by Youthlink. MPHA operates under an agreement with PPL and YouthLink that details funding and operational requirements of the program along with the reporting requirements.

### **Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)**

MPHA plans no changes to this activity in the plan year.



## Property Owners Incentive Program (2018 – 1)

Approved and implemented, 2018

### Description/Update:

Minneapolis Public Housing Authority (MPHA) and the City of Minneapolis are partnering to fund and administer incentives that encourage property owners in opportunity areas to accept Section 8 Housing Choice Vouchers (HCVs). With these incentives, MPHA and the city intend to reassure property owners that have not partnered in the HCV program, especially due to past challenging experiences, that their concerns can be addressed or mitigated. MPHA anticipates these incentives will increase the number of property owners that participate in the HCV program, leading to increased housing choice for families with vouchers—particularly in areas of greater opportunity.

The incentives, covered under a Memorandum of Understanding with the city, include:

Property damage protections: The city will protect property owners by covering tenant damage claims that exceed the security deposit, up to \$2,500. MPHA will manage the funds and work with the city to evaluate claims.

Property Owner Holding Fee: MPHA will make a payment of a Holding Fee of up to \$500 to the property owner to hold an approved unit for an eligible participant while awaiting the release of a pro-rated rental subsidy.

First Time HCV Property Owner Incentive: Property Owners receive a one-time, \$250 incentive fee when they rent to a voucher holder for the first time.

MPHA processes and pays claims and receives reimbursement from the city for the city's portion (50 percent). MPHA began processing incentive payments in mid-2018. The program is considered a pilot, with a length to be determined by the draw-down of the initial \$50,000 funding pool. In 2019, MPHA expects the program will process and pay claims under the defined terms. We will monitor claim patterns and the draw-down of the pool. At or before the pilot's conclusion, the city and MPHA will jointly reassess the success of the incentives and potential adjustments. The partners may use the community review process and on-going surveys of current and potential owners to adapt or to design new incentives under this initiative.

### Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)

MPHA does not plan any changes to this activity in the plan year.

## **Public Housing Working Family Incentive (2010 – 1)**

Approved and Implemented in 2011

### **Description/Update**

The rent calculation includes an automatic 15 percent deduction from the gross annual earned income of a working family, defined as any family where earned income of any amount is part of the rent calculation. This deduction provides the working family with available money to support work-related costs such as transportation, uniforms, and health insurance premiums.

MPHA has seen good results under this initiative, with annual increases in the number of households employed and increases in the income of these households. These outcomes improve the likelihood that the family would achieve a livable wage and move toward self-sufficiency.

This is a rent reform initiative. MPHA has had no requests for hardship exceptions.

### **Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)**

MPHA plans no changes to this activity in the plan year.

## Reintegration of Offenders (2016 – 2)

Approved in 2016, Implemented in 2017

### Description/Update

This program supports a three-way partnership that provides training, employment, family unification, and housing assistance to men coming out of prison. In the first phase, MPHA provides housing subsidy as sponsor-based voucher to a partner who will provide services. In the second phase, a different partner will develop and operate housing and MPHA will support the project with project-based vouchers. These organizations will also provide various social and supportive services that will help the men reunify with their families and establish civic pride and ties to their communities once they enter the program.

In late 2017, MPHA began providing the 40 sponsor-based vouchers under the first phrase. The partner, Better Futures, operates intensive training, supportive services and employment programs. MPHA has entered an agreement with Better Futures that details the funding and operational requirements of the program along with the reporting requirements that respond to the HUD metrics. MPHA pays a flat subsidy to Better Futures to cover costs of housing and services for each sponsor-based participant in the program. Participants are selected via referrals from the Minnesota Department of Corrections, the county's Coordinated Entry process, or as walk-in applicants.

The housing development for the project-based phase, called "Great River Landing," broke ground in the spring of 2018. The developer partner for this phase is Beacon Interfaith Housing Collaborative. Once the permanent housing development is completed (expected during 2019) MPHA's project-based vouchers will provide long-term support for the supportive housing program at the site. MPHA has provided a commitment for 40 PBVs, providing an essential subsidy to support the 72-unit development.

MPHA will provide the sponsor-based and PBV payments as a flat subsidy, allowing for a rent structure implemented by the partners to best incentivize work for this population and encourage a smooth transition to working life.

### Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)

MPHA plans no changes to this activity in the plan year.

## **Shelter to Home – Project-Based Vouchers (2016 – 1)**

Approved in 2016, Implemented in 2016

### **Description/Update**

The Minneapolis/Hennepin County initiative to end homelessness has made significant progress in housing single adults. However, it is behind its targets to establish transitional and permanent affordable housing for families. Shelters for families with children are currently overcrowded; with no next step for these families, they remain in shelter longer and limit spaces for other families who find themselves in housing crisis.

MPHA will place up to 50 project-based vouchers (PBVs) with non-profit housing providers in the City of Minneapolis, focused on providing housing to formerly homeless families. Eligible families will be identified through Hennepin County's case management system, and the county will provide the referrals. Families will receive ongoing services from Hennepin County, property owners and/or their services provider partners. Property owners will be required to reserve the project-based units exclusively for families coming out of shelter, develop a family-services plan that will support the family in finding alternative housing within five years, and hold the units as an ongoing resource for homeless families.

MPHA issued an initial request-for-proposals (RFP) in August 2016 and subsequently awarded a housing assistance payments (HAP) contract to one housing provider, Lutheran Social Services, for 12 PBVs. These units were to be converted to PBV in the course of natural attrition, which has happened slowly. The first move-ins began in 2018. Subsequent to the low initial response, MPHA engaged with the City of Minneapolis to coordinate our RFP process with RFPs for other Minneapolis affordable housing funding programs, in the hopes that this will present the opportunity to a wider audience of developers. However, MPHA has received only a small number of additional applications, with none suitable for approval to-date. We will continue to explore the potential for PBVs to serve this hard-to-house population.

### **Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)**

MPHA plans no changes to this activity in the plan year.

## Shelter to Home - Public Housing (2015 – 1)

Approved in 2015, Implemented in 2017

### Description/Update

The Minneapolis/Hennepin County initiative to end homelessness has made significant progress in housing single adults. However, it is behind its targets to establish transitional and permanent affordable housing for families. Shelters for families with children are currently overcrowded; with no next step for these families, they remain in shelter longer and limit spaces for other families who find themselves in housing crisis.

Under HUD's Faircloth limit, Minneapolis Public Housing Authority (MPHA) has the authority to operate additional public housing units over its current stock and receive additional subsidy for the units. MPHA is using its MTW authority to create a supportive housing program for families coming out of homeless shelters, and to limit the time families can utilize this housing for no more than five years to ensure that these developments serve as an on-going resource for homeless families. MPHA hopes that this program will create 30 to 50 units in the first five years of the program, bringing relief to families who are stuck in shelter and freeing up shelter space for other families facing urgent need. Families targeted for the program will receive ongoing supportive services.

In May 2018, MPHA and our many partners broke ground for the Minnehaha Townhomes. MPHA will develop, own, and manage these 16 townhomes for families experiencing homelessness. Families will come as referrals from the Hennepin County homeless shelter system, with the units reserved for families below 30 percent of area median income. The four buildings will revitalize a long-vacant site, donated by the City of Minneapolis. The development includes four two-bedroom and 12 three-bedroom units, along with a playground, ample green space, community patio, storm-water management, and connections to the city sidewalk and trail system. Four units will be permanent supportive housing, reserved for families experiencing long-term homelessness.

The families who will live at the Minnehaha Townhomes will receive services from the county and a rapid rehousing provider. These supportive services will emulate Hennepin County's Stable Families Initiative Pilot Program, including the highly successful Young Parents Program and Integrated County Service components, which focus on families at risk of repeat shelter stays.

Over the longer term, MPHA may also work with local affordable housing developers to include Faircloth units in affordable housing projects in the City of Minneapolis using the Operating Subsidy-Only Mixed Finance Development process. These developments would be dependent upon the developer receiving other non-public housing financing.

### Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)

MPHA plans no updates to this activity in the plan year.

## **Soft Subsidy Initiative (2011 – 2)**

Approved in 2011, Implemented in 2013

### **Description/Update**

In traditional housing assistance programs, whenever a participant increases their income, their rent portion increases. The goal of this initiative is to reverse that relationship so that when a participant starts working or attending job training, their rent portion decreases to incentivize work. Under this activity, MPHA entered into a subsidy agreement with a service-provider partner that rehabbed 20 units for participating families. The partner expected the family to commit to a path off government assistance and into the workforce; the family receives a rent subsidy in return. MPHA provides a fixed subsidy payment to the partner. The participating families came from multi-generational poverty, with poor rental histories and little to no work experience. Services provided to families housed under this initiative included intensive weekly coaching on setting and achieving goals. Once participants start working, partner staff worked with them on furthering their education or training to move beyond entry-level jobs.

The 20 families that moved into the units that opened in 2013 generally made progress on at least one goal. Despite the tough job market, almost all of the families were employed. The initial partner under this initiative experienced funding challenges in 2017 and announced that it needed to discontinue the program with the start of 2018; the program was briefly suspended. However, we are in ongoing discussions with the partner and anticipate reactivating the program in 2019.

### **Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)**

MPHA does not plan any changes to this activity in the plan year.



## Targeted Project-Based Initiative (2011 – 1)

Approved in 2011, Implemented in 2012

### Description/Update

Under this activity, MPHA project-bases vouchers for the specific purpose of creating additional affordable housing for low-income families in the City of Minneapolis. MPHA's objective is to expand the locations of PBV programs, and to strategically deploy voucher awards to leverage the creation of additional non-PBV affordable housing (affordable to families with 80 percent of Area Media Income or below). MPHA limits the number of vouchers that were awarded to any development to 20 vouchers.

MPHA's initial goal was to facilitate 120 new affordable units. MPHA first awarded vouchers under this initiative in early 2012. Here are the totals to-date:

<b>Development Name</b>	<b>Total Affordable Housing Units</b>	<b>MPHA Project-Based Vouchers</b>
Emanuel Housing	101	17 (includes 11 VASH PBVs)
The Rose	101	15
Spirit-on-Lake	46	5
Lonoke	19	4
<b>TOTAL</b>	<b>267</b>	<b>41</b>

### Changes to Activity, Metrics, or Data Collection – Planned (Annual Plan) or Actual (Annual Report)

MPHA plans no changes to this activity in the plan year.

## **B. ACTIVITIES NOT YET IMPLEMENTED**

None.

## **C. ACTIVITIES ON HOLD**

### **Alternate Income Verifications (2013 – 2)**

Approved in 2013, Not Implemented, Placed On-Hold in 2017

#### **Description**

The purpose of this activity was to enable low-income persons in need of assisted living to receive housing with services that would not be available to them with the current regulatory requirements for verification of income in public housing. MPHA proposed that if an applicant was eligible and has income information that clearly demonstrates eligibility for public housing, MPHA should be able to utilize this information to sign a lease and move the tenant into housing. However, MPHA found in practice that it did not need to implement this initiative to successfully house persons in the agency's new acute assisted living/memory care programs. The activity may, however, be relevant to future efforts.

#### **Reactivation Update (Plan) or Actions Taken (Report)**

MPHA's plans and timeline are indeterminate at this time. The activity was placed on-hold in 2017, and we continue to assess its future potential need.

#### **Changes or Modifications Since Approval**

None.

### **Public Housing Earned-Income Disregard (2009 – 4)**

Approved in 2009, Implemented in 2010, Placed On-Hold in 2017

#### **Description**

HUD regulations allow families a full income disregard for one year and a 50% disregard for the second year in certain circumstances (including employment of a previously unemployed household member, participation in a self-sufficiency program, and if the household receives welfare payments). As families move in and out of employment, the disregard is postponed. Monitoring this standard arrangement is time consuming and creates administrative hardships that are prone to errors. MPHA created a full two-year income disregard for eligible families, which eliminated the administrative hardship and time-consuming monitoring.

Since implementing this initiative, 353 MPHA residents have completed MTW EIDs. This number reflects the percentage of elderly and disabled residents in our population. However, households who participated in this program had a meaningful incentive to work and continue working as the EID is targeted to reward families who maintain their employment for a full two years. MPHA also

found the initiative reduced staff time and mitigated possible errors as the policy implements EID for two full years without having to deal with the intermittent, cumbersome tracking and communications issues related to the HUD standard 48-month program. Residents reported that they were able to follow and understand this program better.

The activity was by most measures successful. In light of the PIH Notice 2016-05, MPHA is placing this activity on-hold as it no longer needs MTW Authority to continue it. However, we believe there may be circumstances in which we would reactivate it in the future.

**Reactivation Update (Plan) or Actions Taken (Report)**

MPHA's plans and timeline are indeterminate at this time. The activity was placed on-hold in 2017, and we continue to assess its future potential need.

**Changes or Modifications Since Approval**

None.

## **D. CLOSED OUT ACTIVITIES**

### **Absence from Unit Initiative (2011 – 3)**

Approved in 2001, Implemented in 2011, Closed in 2017

#### **Why the activity was closed out**

The absence-from-unit initiative continues the rent obligation for tenants whose income is temporarily reduced during an absence from the unit for more than 30 days. Under this initiative, tenants who temporarily lose income were required to pay rent as if the income continued. Residents could request a hardship to pay minimum rent during their absence, along with an agreement to repay the difference over the next 12 months.

MPHA's resident organization has continually challenged MPHA to end this initiative as it has a disproportionate impact on immigrant families who receive SSI and lose this income if they travel outside the United States. After several years of experience and study of the financial impact of this initiative, MPHA has determined that the administrative burden related to this initiative and the hardship this creates for very low-income immigrant families is not cost-effective.

### **Biennial Housing Quality Standards Inspections (2012 – 1)**

Approved and Implemented in 2012, Closed out in 2014

#### **Why the activity was closed out**

This activity gave MPHA the authority to change the HCV Program's annual Housing Quality Standards (HQS) Inspection requirement to a biennial HQS Inspection requirement for units in multifamily complexes of six (6) units or more and where 80% of those units passed HQS Inspections in the prior two years. However, two years later Section 220 of the 2014 Congressional Appropriations Act allowed "public housing authorities to inspect assisted dwelling units during the term of a HAP Contract by inspecting such units not less than biennially instead of annually." MPHA's current MTW initiative under this category is fully compliant with all the allowances under Section 220 of the 2014 Congressional Appropriations Act and therefore, the Agency closed out this activity as MTW authority was no longer required.

### **Block Grant and Fungible Use of MPHA Resources (2009 – 1)**

Approved 2009, Implemented in 2009, Closed in 2017

#### **Why the activity was closed out**

HUD does not require this to be reported in the same format as other initiatives. The MTW Sources and Uses provides the detail of the Combined Fund. This Activity was moved to the "Closed Out" Section of the 2017 MTW Plan per HUD instruction.

### **Combine Homeownership Programs (2009 – 3)**

Approved and implemented in 2009, Closed out in 2012

#### **Why the activity was closed out**

MPHA discontinued this initiative in 2012 due to funding shortfalls, and closed out the program. With the phase-out of MPHA's Homeownership Made Easy (HOME) program in June 2012, two families received homeowner education and mortgage readiness counseling in 2012. Of these, one family closed on their home in Northeast Minneapolis in June 2012. No families were assisted through the Moving Home program. No families were referred by Twin Cities Habitat for Humanity or Neighborhood Housing Services of Minneapolis for the Section 8 Mortgage Foreclosure Prevention Program.

### **Earned Income Disallowance Simplification - HCV (2012 – 2)**

Approved and Implemented in 2012, Closed out in 2016

#### **Why the activity was closed out**

In the Housing Choice Voucher Program, HUD regulations allow families whose head of household is disabled a full income disregard for one year and a 50% disregard for the second year. As families move in and out of employment, the disregard is postponed; the monitoring is time-consuming and creates administrative hardships that are prone to errors. MPHA created a two-year full income disregard for eligible families and eliminated the administrative hardship and time-consuming monitoring. MPHA eliminated the Earned Income Disregard in implementing its Rent Reform program, but permitted current participants to complete their two-year eligibility under his initiative.

### **Foreclosure Stabilization Project-Based Voucher Demonstration Program (2010 – 5)**

Approved in 2010, Implemented in 2011, Closed in 2017

#### **Why the activity was closed out**

This initiative was a partnership with a local non-profit that purchased and rehabilitated four- and six-unit properties that had gone through foreclosure. MPHA project-based 21 vouchers at these units. Implementation began in May 2011 and was complete by August 2012 when all 21 units were occupied. The units have remained occupied and active in 2016 as preserved units of affordable housing. The activity's objectives have been fulfilled.

## **MPHA – Hennepin County Transitional Housing Demonstration (2013 – 1)**

Approved in 2013, Implemented in 2014, Closed out in 2016.

### **Why the activity was closed out**

MPHA partnered with Hennepin County to create a “Transitional Housing with Supportive Services” demonstration program to allow MPHA to utilize up to eight public housing units for low-income individuals who are in need of transitional housing for brief periods from a few days to a few months. These individuals are low-income vulnerable persons who will be exiting the hospital, have no support system and need supportive services to avoid re-hospitalization and who without such services would remain in the hospital costing thousands of dollars which could be significantly mitigated under this initiative. This activity did not live up to its promise. The county medical center ultimately could not secure adequate funding to support the concept. Even though it was more costly to address the repeated health needs of homeless people who visited the hospital, Minnesota Medical Assistance (Medicaid) paid for medical costs and could not reimburse for housing. Since implementation in 2014, only two units were occupied by seven individuals, which fell considerably short of our expectations. The key lesson learned is to continue to work on ways that Medicaid might reimburse for housing related costs.

## **Public Housing Self-Sufficiency Program (2009 – 5)**

Approved and implemented in 2009, Closed out in 2012

### **Why the activity was closed out**

MPHA discontinued this program in 2012 due to federal funding cutbacks in its housing programs. This program was developed to support MPHA’s homeownership initiatives which were also discontinued in 2012.



**(V) SOURCES AND USES OF MTW FUNDS****ANNUAL MTW PLAN****A. ESTIMATED SOURCES AND USES OF MTW FUNDS****i. Estimated Sources of MTW Funds**

The MTW PHA shall provide the estimated sources and amount of MTW funding by Financial Data Schedule (FDS) line item.

FDS LINE ITEM NUMBER	FDS LINE ITEM NAME	DOLLAR AMOUNT
70500 (70300+70400)	Total Tenant Revenue	\$21,827,000
70600	HUD PHA Operating Grants	\$71,492,000
70610	Capital Grants	\$13,440,425
70700 (70710+70720+70730+70740+70750)	Total Fee Revenue	\$0
71100+72000	Interest Income	\$260,000
71600	Gain or Loss on Sale of Capital Assets	\$0
71200+71300+71310+71400+71500	Other Income	\$3,196,000
70000	Total Revenue	\$110,215,425

**ii. Estimated Uses of MTW Funds**

The MTW PHA shall provide the estimated uses and amount of MTW spending by Financial Data Schedule (FDS) line item.

FDS LINE ITEM NUMBER	FDS LINE ITEM NAME	DOLLAR AMOUNT
91000 (91100+91200+91400+91500+91600+91700+91800+91900)	Total Operating - Administrative	\$11,529,000
91300+91310+92000	Management Fee Expense	\$8,600,000
91810	Allocated Overhead	\$0
92500 (92100+92200+92300+92400)	Total Tenant Services	\$866,000
93000 (93100+93600+93200+93300+93400+93800)	Total Utilities	\$7,743,000
93500+93700	Labor	\$573,000
94000 (94100+94200+94300+94500)	Total Ordinary Maintenance	\$14,810,000
95000 (95100+95200+95300+95500)	Total Protective Services	\$2,200,000
96100 (96110+96120+96130+96140)	Total Insurance Premiums	\$1,274,000
96000 (96200+96210+96300+96400+96500+96600+96800)	Total Other General Expenses	\$2,500,000
96700 (96710+96720+96730)	Total Interest Expense & Amortization Cost	\$818,000
97100+97200	Total Extraordinary Maintenance	\$120,000
97300+97350	HAP + HAP Portability-In	\$41,155,000
97400	Depreciation Expense	\$15,000,000
97500+97600+97700+97800	All Other Expense	\$0
90000	Total Expenses	\$107,188,000

**Please describe any variance between Estimated Total Revenue and Estimated Total Expenses:**

**Description** As presented in the MTW Budget section, MTW Sources equals MTW Uses. However, Generally Accepted Accounting Principles (GAAP) classify sources and uses differently from revenues and expenses. The variance in Total Estimated Revenue and Total Estimated Expenses is the result of the classification difference. In 2019, MPHA is estimating spending \$16.4 million in capitalized expenditures and receiving current year revenue to pay for these expenditures. Those current year capitalized expenditures are not classified as an expense but instead depreciation of previous years' capitalized expenditures are shown. The difference between the revenue needed for \$16.4 million in planned capital expenditures and \$15 million in depreciation of previous years' capital expenditures creates a \$1.4 million variance of revenue over expense. Additionally, revenue of \$1.6 million is planned to cover the principal payment on loans owed by MPHA. The payment of the principal amount on the loan is not shown as an expense; only the associated interest as required by GAAP. Because of this, there is \$1.6 million more in revenues than expenses. The total variance between estimated revenues and expenses of \$3 million is because revenue for capital expenditures and debt service payments exceeds capital asset depreciation and interest on loans.

**iii. Description of Planned Use of MTW Single Fund Flexibility**

The MTW PHA shall provide a thorough narrative of planned activities that use only the MTW single fund flexibility. Where possible, the MTW PHA may provide metrics to track the outcomes of these programs and/or activities. Activities that use other MTW authorizations in Attachment C and/or D of the Standard MTW Agreement (or analogous section in a successor MTW Agreement) do not need to be described here, as they are already found in Section (III) or Section (IV) of the Annual MTW Plan. The MTW PHA shall also provide a thorough description of how it plans to use MTW single fund flexibility to direct funding towards specific housing and/or service programs in a way that responds to local needs (that is, at a higher or lower level than would be possible without MTW single fund flexibility).

**PLANNED USE OF MTW SINGLE FUND FLEXIBILITY**

**Description:** MPHA does not have any activities that utilize only MTW single fund flexibility.

MPHA plans to use approximately \$6.1 million from its HCV HAP Subsidy to augment other programs in accordance with the needs of our local community. Of this amount: \$2.7 million is planned for MPHA's Public Housing Capital Budget; \$1.2 million for the Public Housing Operating Budget; \$1.6 million to HCV Administration; \$276,000 to Capital Improvement Administration Fees; and \$335,000 to MTW Local Initiatives (primarily research, reporting, and administration related to MPHA's MTW status). Among other things, these transfers allow significant building rehabilitation and repair of essential systems that would not be possible under the federal capital fund alone; help augment security services to provide public housing residents with a safer living environment; and support a higher level of responsiveness and customer service to Housing Choice Voucher participants and property owners than would not have been possible under deeply prorated HCV administrative funding.

**B. LOCAL ASSET MANAGEMENT PLAN**

i. Is the MTW PHA allocating costs within statute?

No

ii. Is the MTW PHA implementing a local asset management plan (LAMP)?

Yes

iii. Has the MTW PHA provide a LAMP in the appendix?

Yes

iv. If the MTW PHA has provided a LAMP in the appendix, please describe any proposed changes to the LAMP in the Plan Year or state that the MTW PHA does not plan to make any changes in the Plan Year.

**Description:** The amended LAMP will clarify maintenance supervision activities and permit MPHA's Quality Maintenance Program to operate a maintenance team that serves multiple AMPs as a front-line cost.

**C. RENTAL ASSISTANCE DEMONSTRATION (RAD) PARTICIPATION**

**i. Description of RAD Participation**

The MTW PHA shall provide a brief description of its participation in RAD. This description must include the proposed and/or planned number of units to be converted under RAD, under which component the conversion(s) will occur, and approximate timing of major milestones. The MTW PHA should also give the planned/actual submission dates of all RAD Significant Amendments. Dates of any approved RAD Significant Amendments should also be provided.

**RENTAL ASSISTANCE DEMONSTRATION (RAD) PARTICIPATION**

MPHA has not converted any properties using RAD. By the time of this plan's submission to HUD, we anticipate having applied for RAD for one property: the Elliot Twins, consisting of two towers with 174 units of public housing. We are proposing to perform major rehabilitation under RAD, retaining all units in their current configuration. The objective is to preserve the housing for the long-term, for the residents who live there. To secure the maximum funding for preservation, the conversion may use the RAD "blend" option including both RAD and Section 18. Timing depends upon HUD approval of the application and the subsequent assembly of a financing plan. MPHA will pursue further RAD applications as indicated by our underlying financial and capital needs data, and in line with the priorities under our Strategic Vision.

**ii. Has the MTW PHA submitted a RAD Significant Amendment in the appendix? A RAD Significant Amendment should only be included if it is a new or amended version that requires HUD approval.**

No

**iii. If the MTW PHA has provided a RAD Significant Amendment in the appendix, please state whether it is the first RAD Significant Amendment submitted or describe any proposed changes from the prior RAD Significant Amendment?**

N/A

## **VI. ADMINISTRATIVE**

### **A. Board Resolution and Certifications of Compliance**

See Appendix A, Board Report/Resolution and Certifications of Compliance.

### **B. Documentation of Public Process**

The draft plan was available for public review on July 20, 2018. The MPHA Board of Commissioners held our public hearing on August 22, 2018.

See Appendix B for detailed documentation of MPHA's public process and a summary of public comments.

### **C. Planned and Ongoing Evaluations**

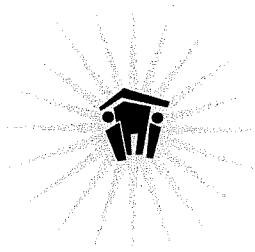
MPHA has no planned or ongoing MTW PHA-directed evaluations of the MTW demonstration and/or of any specific MTW activities.

### **D. Lobbying Disclosures**

See Appendix C for Certification of Payments (HUD Form 50071). Form SF-LLL is not relevant to MPHA's activities.

## **APPENDIX A: Board Resolution and Certifications of Compliance**

These items begin on the following page.



# APPROVED

September 26, 2018

Agenda Item 3

## REPORT TO THE COMMISSIONERS

**FROM:** Gregory Russ, Executive Director/CEO

**SUBJECT:** Approval of MPHA 2019 Moving to Work (MTW) Annual Plan

**Previous Directives:** On January 6, 2008 MPHA signed an MTW Agreement with HUD making MPHA a full-status MTW agency. This status requires MPHA to create an Annual MTW Plan. On July 6, 2008, the board approved MPHA's first MTW Annual Plan. As required by the MTW Agreement, the board must approve and submit to HUD a new MTW Annual Plan each year.

**Resident Notification:** The Resident Advisory Board (RAB) will review and act on its recommendations to the board regarding the 2019 Annual Plan prior to the September 26, 2018 board meeting.

**Impact on Budget:** The MTW Annual Plan identifies how MPHA resources will be spent but does not itself have a budgetary impact.

**Recommendation:** It is recommended that the Board of Commissioners adopt a resolution approving the MPHA FY 2019 MTW Annual Plan and submit it to HUD pursuant to the requirements in the MTW Agreement.

MPHA strives in its public process to exceed the requirements of the MTW Agreement. MTW agencies are required by the Agreement to hold one public hearing, make the draft plan available for comment for at least 30 days, and allow at least 15 days between the public hearing and board approval.

MPHA made a draft of its plan available beginning July 20, 2018, along with a Somali translation of the plan's Section 1 (Introduction). These were available on MPHA's website (on an "MTW" page prominently advertised on our home page), at the front desk of MPHA's central office, and for printing upon-request at all MPHA property management offices. Prior to the draft plan's release, MPHA provided notice by mail, in English and Somali, to all public housing residents. This notice included: the July 20 release date, where to obtain the plan, dates and times of upcoming public meetings, how to provide comments by email or regular mail, the deadline for comments, and how to request language or other accommodation. MPHA property managers were directed to post this notice in a visible place.



MPHA also mailed this notice to a random selection of 500 households with Housing Choice Vouchers and placed advance notices of the plan and public hearing in multiple print and online outlets.

MPHA's Resident Advisory Board (RAB) met in late June to propose their priorities for the inclusion in the draft plan. The RAB met twice in July; once to continue its discussion, and again to approve the priorities (included in the plan as an appendix).

MPHA's Board of Directors held a public hearing on the draft MTW Annual Plan on August 22, 2018. One week prior to this, MPHA also held two informational meetings (daytime and evening) that were open to the public, at a public housing building with a commons room suited to the event. These meetings featured a presentation on the MTW Annual Plan contents, followed by an opportunity for public comment. At these informational meetings, the multiple MPHA senior staff in attendance answered questions and concerns, in addition to the necessary task of documenting public comments. At all meetings and the public hearing, MPHA provided interpretation in Somali, Oromo, Hmong, and American Sign Language, in anticipation of the possible need for these services. MPHA was prepared to accommodate additional languages upon advance request.

Meeting attendance at the informational meetings is difficult to estimate precisely, as some people came late or left early and certain attendees actively discouraged residents and members of the public from utilizing our sign-in sheets. We estimate daytime attendance at around 100 people, and evening attendance around 30 people. Attendance at the public hearing was around 50 people.

MPHA's deadline for comments was August 27, 2018, five days beyond the public hearing and 38 days after the draft plan became available. MPHA has included a summary of public comments and MPHA responses in an appendix to the plan.

A copy of the recommended Board Resolution is attached to this report. This report was prepared by Jeff Horwich, Director of Policy and External Affairs ([jhorwich@mplspha.org](mailto:jhorwich@mplspha.org)).

**RESOLUTION No. 18-182**

**WHEREAS**, the Minneapolis Public Housing Authority in and for the City of Minneapolis (MPHA) signed a Moving to Work (MTW) Agreement with the U.S. Department of Housing and Urban Development (HUD) on January 6, 2008, making MPHA a full-status MTW Agency; and

**WHEREAS**, the full-status MTW Agreement requires MPHA to create an annual MTW Plan; and

**WHEREAS**, MPHA is required to submit the MTW Annual Plan at least 75 days prior to the start of the fiscal/calendar year;

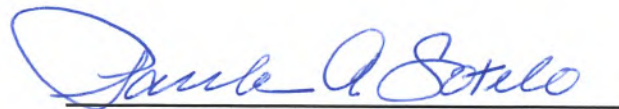
**NOW THEREFORE, BE IT RESOLVED** by the Board of Commissioners of MPHA that the 2019 MTW Annual Plan is approved and that the Executive Director is authorized to submit it to HUD for approval as required.

## **C E R T I F I C A T E**

I, **Paula Sotelo**, Executive Assistant to the Executive Director and Board of Commissioners of the Minneapolis Public Housing Authority in and for the City of Minneapolis, do hereby certify that the attached **RESOLUTION** was duly adopted at a regular meeting of the Board of Commissioners of said Authority, held on September 26, 2018, and is a true and correct copy of the **RESOLUTION** adopted at said meeting and on file and of record in the official Minutes of said Authority.

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of said Authority this 26th day of September 2018.

***I DO HEREBY CERTIFY THAT I AM DULY AUTHORIZED TO EXECUTE THIS CERTIFICATE.***



Paula Sotelo

**(SEAL)**

## CERTIFICATIONS OF COMPLIANCE

### **U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT OFFICE OF PUBIC AND INDIAN HOUSING**

#### **Certifications of Compliance with Regulations: Board Resolution to Accompany the Annual Moving to Work Plan**

Acting on behalf of the Board of Commissioners of the Moving to Work Public Housing Agency (MTW PHA) listed below, as its Chairman or other authorized MTW PHA official if there is no Board of Commissioners, I approve the submission of the Annual Moving to Work Plan for the MTW PHA Plan Year beginning 1/1/2019, hereinafter referred to as "the Plan", of which this document is a part and make the following certifications and agreements with the Department of Housing and Urban Development (HUD) in connection with the submission of the Plan and implementation thereof:

- (1) The MTW PHA published a notice that a hearing would be held, that the Plan and all information relevant to the public hearing was available for public inspection for at least 30 days, that there were no less than 15 days between the public hearing and the approval of the Plan by the Board of Commissioners, and that the MTW PHA conducted a public hearing to discuss the Plan and invited public comment.
- (2) The MTW PHA took into consideration public and resident comments (including those of its Resident Advisory Board or Boards) before approval of the Plan by the Board of Commissioners or Board of Directors in order to incorporate any public comments into the Annual MTW Plan.
- (3) The MTW PHA certifies that the Board of Directors has reviewed and approved the budget for the Capital Fund Program grants contained in the Capital Fund Program Annual Statement/Performance and Evaluation Report, form HUD-50075.1 (or successor form as required by HUD).
- (4) The MTW PHA will carry out the Plan in conformity with Title VI of the Civil Rights Act of 1964, the Fair Housing Act, section 504 of the Rehabilitation Act of 1973, and title II of the Americans with Disabilities Act of 1990.
- (5) The Plan is consistent with the applicable comprehensive housing affordability strategy (or any plan incorporating such strategy) for the jurisdiction in which the PHA is located.
- (6) The Plan contains a certification by the appropriate state or local officials that the Plan is consistent with the applicable Consolidated Plan, which includes a certification that requires the preparation of an Analysis of Impediments to Fair Housing Choice, for the MTW PHA's jurisdiction and a description of the manner in which the Plan is consistent with the applicable Consolidated Plan.
- (7) The MTW PHA will affirmatively further fair housing by fulfilling the requirements at 24 CFR 903.7(o) and 24 CFR 903.15(d), which means that it will take meaningful actions to further the goals identified in the Assessment of Fair Housing (AFH) conducted in accordance with the requirements of 24 CFR 5.150 through 5.180, that it will take no action that is materially inconsistent with its obligation to affirmatively further fair housing, and that it will address fair housing issues and contributing factors in its programs, in accordance with 24 CFR 903.7(o)(3). Until such time as the MTW PHA is required to submit an AFH, and that AFH has been accepted by HUD, the MTW PHA will address impediments to fair housing choice identified in the Analysis of Impediments to fair housing choice associated with any applicable Consolidated or Annual Action Plan under 24 CFR Part 91.
- (8) The MTW PHA will comply with the prohibitions against discrimination on the basis of age pursuant to the Age Discrimination Act of 1975.
- (9) In accordance with 24 CFR 5.105(a)(2), HUD's Equal Access Rule, the MTW PHA will not make a determination of eligibility for housing based on sexual orientation, gender identify, or marital status and will make no inquiries concerning the gender identification or sexual orientation of an applicant for or occupant of HUD-assisted housing.
- (10) The MTW PHA will comply with the Architectural Barriers Act of 1968 and 24 CFR Part 41, Policies and Procedures for the Enforcement of Standards and Requirements for Accessibility by the Physically Handicapped.
- (11) The MTW PHA will comply with the requirements of section 3 of the Housing and Urban Development Act of 1968, Employment Opportunities for Low-or Very-Low Income Persons, and with its implementing regulation at 24 CFR Part 135.
- (12) The MTW PHA will comply with requirements with regard to a drug free workplace required by 24 CFR Part 24, Subpart F.
- (13) The MTW PHA will comply with requirements with regard to compliance with restrictions on lobbying required by 24 CFR Part 87, together with disclosure forms if required by this Part, and with restrictions on payments to influence Federal Transactions, in accordance with the Byrd Amendment and implementing regulations at 49 CFR Part 24.

OMB Control Number: 2577-0216  
Expiration Date: 01/31/2021

- (14) The MTW PHA will comply with acquisition and relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and implementing regulations at 49 CFR Part 24 as applicable.
- (15) The MTW PHA will take appropriate affirmative action to award contracts to minority and women's business enterprises under 24 CFR 5.105(a).
- (16) The MTW PHA will provide HUD or the responsible entity any documentation needed to carry out its review under the National Environmental Policy Act and other related authorities in accordance with 24 CFR Part 58. Regardless of who acts as the responsible entity, the MTW PHA will maintain documentation that verifies compliance with environmental requirements pursuant to 24 Part 58 and 24 CFR Part 50 and will make this documentation available to HUD upon its request.
- (17) With respect to public housing and applicable local, non-traditional development the MTW PHA will comply with Davis-Bacon or HUD determined wage rate requirements under section 12 of the United States Housing Act of 1937 and the Contract Work Hours and Safety Standards Act.
- (18) The MTW PHA will keep records in accordance with 24 CFR 85.20 and facilitate an effective audit to determine compliance with program requirements.
- (19) The MTW PHA will comply with the Lead-Based Paint Poisoning Prevention Act and 24 CFR Part 35.
- (20) The MTW PHA will comply with the policies, guidelines, and requirements of OMB Circular No. A-87 (Cost Principles for State, Local and Indian Tribal Governments) and 24 CFR Part 200.
- (21) The MTW PHA will undertake only activities and programs covered by the Plan in a manner consistent with its Plan and will utilize covered grant funds only for activities that are approvable under the Moving to Work Agreement and Statement of Authorizations and included in its Plan.
- (22) All attachments to the Plan have been and will continue to be available at all times and all locations that the Plan is available for public inspection. All required supporting documents have been made available for public inspection along with the Plan and additional requirements at the primary business office of the PHA and at all other times and locations identified by the MTW PHA in its Plan and will continue to be made available at least at the primary business office of the MTW PHA.

Minneapolis Public Housing Authority

MN002

MTW PHA NAME

MTW PHA NUMBER/HA CODE

*I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate. Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802).*

F. Clayton Tyler

Chair, MPHA Board of Commissioners

NAME OF AUTHORIZED OFFICIAL

TITLE

SIGNATURE

DATE

\* *Must be signed by either the Chairman or Secretary of the Board of the MTW PHA's legislative body. This certification cannot be signed by an employee unless authorized by the MTW PHA Board to do so. If this document is not signed by the Chairman or Secretary, documentation such as the by-laws or authorizing board resolution must accompany this certification.*



## **APPENDIX B: Documentation of Public Process and Summary of Public Comments**

### **PUBLIC PROCESS: 2019 MTW ANNUAL PLAN**

MPHA strives in its public process to exceed the requirements of the MTW Agreement. MTW agencies are required by the Agreement to hold one public hearing, make the draft plan available for comment for at least 30 days, and allow at least 15 days between the public hearing and board approval.

MPHA made a draft of its plan available beginning July 20, 2018 (along with a Somali translation of the plan Introduction), with the comment period ending 38 days later on August 27. Materials were available on MPHA's website (on an "MTW" page prominently advertised on our home page), at the front desk of MPHA's central office, and for printing upon-request at all MPHA property management offices. Prior to the draft plan's release, MPHA provided notice by mail, in English and Somali, to all public housing residents. MPHA property managers posted this notice, which included: the July 20 release date, where to obtain the plan, dates and times of upcoming public meetings, how to provide comments by email or regular mail, the deadline for comments, and how to request language or other accommodation. MPHA also mailed this notice to a random selection of 500 households with Housing Choice Vouchers and placed advance notices of the plan and public hearing in multiple print and online outlets.

MPHA's Resident Advisory Board (RAB) met in late June to propose their priorities for the inclusion in the draft plan. The RAB met twice in July; once to continue its discussion, and again to approve the priorities (included in the plan as Appendix D).

MPHA's Board of Directors held a public hearing on the draft MTW Annual Plan on August 22, 2018. One week prior to this, MPHA also held two informational meetings (daytime and evening) that were open to the public. These meetings featured a presentation on the MTW Annual Plan contents, followed by an opportunity for public comment. At these informational meetings, multiple MPHA senior staff in attendance answered questions and concerns. At all meetings and the public hearing, MPHA provided interpretation in Somali, Oromo, Hmong, and American Sign Language, in anticipation of the possible need for these services.

MPHA estimates 100 people attended the daytime informational meeting and 30 people attended the evening meeting. Meeting attendance at the informational meetings is difficult to estimate precisely, as some attendees declined to utilize our sign-in sheets. Attendance at the public hearing was approximately 50 people.

## SUMMARY OF PUBLIC COMMENTS

MPHA thanks all who took time to submit comments. MPHA has reviewed these comments in their entirety and with due consideration prior to submitting the MTW Annual Plan for board approval. By the comment deadline, MPHA received a total of 39 emailed comments, five mailed or personally delivered written comments (including a hand-delivered petition), and 25 oral comments at three public meetings. MPHA also received an official response from the Minneapolis Highrise Representative Council (MHRC), which is reproduced at the end of this appendix section. This summary represents an overview of key topics evident in the comments and is not an exhaustive list of all comments received.

With the notable exception of comments from the MHRC, many comments were similarly themed, including the 70 percent of written comments that consisted of the same form-letter. These expressed concern about the perceived loss of public housing and MPHA's application for HUD's Rental Assistance Demonstration (RAD) program. The common statements closely reflected an ongoing campaign of incorrect information circulated by third-parties. Such comments are valuable to the agency in understanding areas of misunderstanding and identifying communication priorities. Insofar as they are based in mistaken or deliberately misleading interpretations of federal and local programs and regulations, MPHA's mission and intentions, and the text of the plan, their use is limited in informing the plan itself.

Not all comments fit this template. Some comments advocated for attention to specific details in any capital investments MPHA makes (such as broadband and wireless Internet access, accessibility for seniors and the disabled, elevator modernization, and exercise space). MPHA looks forward to working closely with residents to understand design priorities and make informed decisions in our modernization projects. Our vision extends beyond just repairs to include "livability" improvements that enhance comfort, a sense of community, and the ability of seniors to age-in-place.

Other comments encouraged MPHA to emphasize scholarship, apprenticeship, and employment opportunities for public housing residents and HCV participants, and to bring a greater focus on chemical dependency and mental health issues. MPHA shares these values, and hopes our approach to the "Education, Employment, and Health" and "Growing MPHA's Organizational Capacity" sections in our plan embody this, including re-launching a Resident Services department. Another comment encouraged MPHA to employ more skilled union workers; MPHA is optimistic that the job opportunities created by investment in our housing in future years will create many such jobs.

Some comments spoke specifically to MPHA public housing procedures, which do not pertain to the content of an annual plan. MPHA has received and forwarded the comments to our operational team.

Some commenters voiced their support for MPHA's materials, communication, and vision. A number of these comments recognized the potential for the RAD program to bring funding stability and building upgrades to MPHA's public housing. These comments also acknowledged the ongoing need to educate and inform about RAD, especially in light of persistent outside efforts to misinform and stoke fears around the program. The comments from MHRC requested additional materials and simplified explanations to continue to build confidence in the program and its protections for residents. MHRC's comments expressed support for specific items emphasized in the plan, including energy efficiency, exploring the use of accessory dwelling units on land MPHA owns, health and wellness, and a commitment to prioritize security to the extent our budget allows. MHRC also invited MPHA to work



closely with them to increase the push at the local, state, and federal level to maintain and increase support for public housing that “has been sorely lacking.” MPHA looks forward to partnering ever more closely to ensure public officials understand the importance of what we do and hear the stories of those we serve.

Comments critical of MPHA either consisted solely of the aforementioned form-letter or mirrored it closely. These comments featured a few distinct themes, which we will address briefly here. One of these is MPHA’s “hidden plans” to harm or end public housing, displacing the families we serve. MPHA has been clear and public in our intention to preserve all of our units, protecting the rights and housing benefits of current residents while assuring our ability to serve low-income families into the future. We are a transparent, public institution with no unseen intention to the contrary, which would violate our mission.

A second theme attacks MPHA’s public and approval processes with regard to our MTW Plan and our recent application for HUD’s RAD program. MPHA is scrupulous in assuring that our public processes satisfy all meeting and disclosure requirements, and often exceed them; this includes our own policies as well as any requirements of federal, state, or local law. MPHA’s Board of Commissioners is solely charged with approving the agency’s MTW Annual Plan and applications for HUD programs such as RAD. A third theme seeks to sow confusion about the relationship of HUD’s public housing-related programs (RAD and Section 18) and tenant-based Section 8 Housing Choice Vouchers. Any suggestions that MPHA’s capital plans will require families to use tenant-based vouchers are fully incorrect; they are supported neither by MPHA’s own statements nor the workings of federal programs such as RAD. A final theme asserts that MPHA has (or has access to) sufficient public funds to preserve our housing without exploring programs such as RAD and Section 18. While MPHA is deeply engaged in pursuing additional public funds at all levels of government, this perspective shows a deliberate disregard for the reality of public housing funding, the depth of the need, and prudent actions needed today as responsible stewards of low-income housing essential to our Minneapolis community.

## **FULL COMMENTS FROM THE MINNEAPOLIS HIGHRISE REPRESENTATIVE COUNCIL (MHRC)**

### **Regarding MPHAs’ Strategic Vision and Capital Plan**

The MHRC has, for many years, joined with local and national housing advocacy organizations to urge the federal government to meet its obligation of preserving and expanding public housing. The Rental Assistance Demonstration (RAD) program is a response to the failure of the federal government to fulfill this obligation and the primary way available to housing authorities to save and expand their housing. Highrise residents share the same concerns as many about how a RAD conversion will impact them and their communities. We have had countless discussions with MPHA staff, have been involved in developing guiding principles for redevelopment work that clearly state tenant protections and expectations for tenant involvement, and just yesterday highrise resident leaders participated in a RAD training. Questions will continue to come up as MPHA moves forward with various aspects of its strategic vision and capital plan but we are more confident now, than at the beginning, about guaranteed tenant protections and guaranteed permanent affordability of our housing.

Additional requests and comments:

- We request that the MPHA hold more than the HUD-required number of meetings throughout the RAD process to thoroughly address and satisfy resident questions and concerns;
- We request that MPHA provide a more simplified explanation about the conversion of public housing to project-based Section 8, including a description and comparison of Project Based Section 8, Housing Choice Vouchers and Tenant Protection Vouchers;
- We request that MPHA continually state its commitment to deeply affordable housing and that this commitment carries into all redevelopment efforts;
- We support proposed energy efficiency improvements in RAD conversions and other new developments;
- We support exploring innovative approaches to building additional family housing on land already owned by MPHA and purchasing and rehabbing naturally occurring affordable housing;
- Security remains the number one priority for highrise residents and we appreciate MPHA's commitment to address security considerations in its capital improvement work.
- We applaud MPHA for understanding the importance of addressing health and wellness in its strategic plan and request that you work closely with our Active Living Committee which has been promoting walking clubs, community vegetable gardens, exercise programs and more, as you develop your resident services program. We also want to encourage you to work closely with us on efforts to better address resident chemical dependency issues and develop initiatives to better support residents who have mental illness or who are experiencing a mental health crisis.

**Regarding Planned Physical Improvements in the Capital Fund Program**

- Residents recognize that the vast majority of limited capital improvement dollars must go toward maintaining and repairing critical building systems. Elevator breakdowns continue to be a major resident concern in many buildings and we are pleased that elevator maintenance is addressed in next year's capital budget. Residents also request that MPHA be mindful of the need for space in the highrises for exercise equipment. Many residents are focused on optimizing their health and areas for exercise in the buildings, especially in the winter months, are in high demand.
- We urge MPHA to provide shelters for residents who smoke, similar to the one at 2728 E. Franklin Ave. Enforcement of the smoking ban is a challenge for MPHA and shelters will be an encouragement for residents to go outside to smoke, especially during bad weather.

**Regarding MPHA FY2019 Budget**

It is clear that MPHA faces continued major funding challenges in FY2019 and into the near future. As MPHA considers cost-saving measures we urge MPHA to keep these two things in mind:

- 1) MPHA should avoid cuts to programs and services that directly impact residents including management, maintenance and security as well as resident-run programs. A positive resident perception of our homes and our quality of life in our buildings must be maintained in order to preserve public housing.

2) It is more important now, than ever, that MPHA partner with the MHRC and other groups to go after local and state support of public housing that has been sorely lacking. Public housing is an asset to Minneapolis and to neighborhoods and should be supported more vigorously at all levels of government. The City, alone, could provide over \$8 million to support MPHA's security and capital needs through a mill levy, if there was the will to do so. MPHA and MHRC need to improve our partnership in this effort. Additionally, State legislators need to hear more from MPHA about the critical unfunded capital needs MPHA is facing and be urged to pass a bonding bill that helps to adequately address them. For years, residents and the MHRC have brought resident voices to City Hall, the State legislature and Washington DC. We know there is room for more collaboration and new ideas on how to move this important agenda forward.

**Certification of Payments  
to Influence Federal Transactions**U.S. Department of Housing  
and Urban Development  
Office of Public and Indian HousingOMB Approval No. 2577-0157 (Exp. 01/31/2017)  
2019 MTW Annual Plan

Applicant Name

Minneapolis Public Housing Authority

Program/Activity Receiving Federal Grant Funding

publicly owned housing and housing choice voucher programs

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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 any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.  
**Warning:** HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

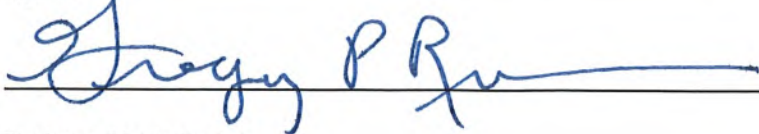
Name of Authorized Official

Title

Executive Director

Signature

Date (mm/dd/yyyy)



9-14-18

Previous edition is obsolete

## APPENDIX D: Resident Advisory Board 2019 MTW Annual Plan Priorities

*MPHA's Resident Advisory Board (RAB) drafted and approved the following priorities to guide MPHA's actions in 2019.*

- ❖ Define and maintain high standards and accountability for maintenance staff and management, and apply them consistently across MPHA properties. Create a protocol for residents to comment and address their concerns.
- ❖ Advocate for and use MTW fungibility as much as possible to provide adequate funding for maintenance of buildings.
- ❖ Continue to incorporate MPHA's *Guiding Principles for Redevelopment and Capital Investments as MPHA pursues its Strategic Vision and Capital Plan to preserve public housing*
- ❖ Maintain a policy of one-for-one hard unit replacement of public housing.
- ❖ Create and define a comprehensive security program, including:
  - Investing in cameras and other security measures where it makes the most difference.
  - Enforcing MPHA's guest/visitor policies to ensure unauthorized people are not entering the buildings.
  - Protecting the anonymity of residents/Project Lookout volunteers who report other residents.
- ❖ Pursue restoration of the full tax levy, as allowable under state law, and reinstate \$1.2 million of this levy for resident security.
- ❖ Do not increase rent over 30% of income.
- ❖ Do not implement housing time limits.
- ❖ Focus on the most needy: homeless, children, elderly, disabled, and ex-offenders.
- ❖ Create collaborations that increase affordable housing and/or services for residents.
- ❖ Focus on resident employment opportunities, including Section 3, as part of all MPHA activities, including:
  - A Section 3 "job bank";
  - Posting and publicizing MPHA and Section 3 job opportunities in all buildings;
  - Giving residents a preference for available jobs at MPHA.



## **APPENDIX E: Local Asset Management Plan (LAMP)**

The Minneapolis Public Housing Authority (MPHA) follows HUD's asset management program including project-based management, budgeting, accounting, and financial management. HUD consultants completed an on-site review of MPHA's asset management conversion in 2008 and found that MPHA demonstrated a successful conversion to asset management.

In programs where it applies, 2 CFR Part 200, Subpart E allows PHAs to use a fee-for-service in lieu of allocation systems for the reimbursement of overhead costs. MPHA has elected to use a fee-for-service approach.

The Changes in Financial Management and Reporting for Public Housing Agencies Under the New Operating Fund Rule (24 CFR part 990) Supplement to HUD Handbook 7475.1 REV., CHG-1, Financial Management Handbook states that a PHA may charge up to a maximum 10 percent of the annual Capital Fund grant as a management fee. While current program rules (§ 968.112) allow PHAs to charge up to 10 percent of the Capital Fund grant for "Administration," these administrative costs must be specifically apportioned and/or documented. Under a fee-for-service system, the PHA may charge a management fee of 10 percent, regardless of actual costs.

The Capital Fund Program management fee covers costs associated with the Central Office Cost Center's oversight and management of the Capital Fund Program. These costs include duties related to general capital planning, preparation of the Annual Plan, processing of e-LOCCS, preparation of reports, drawing of funds, budgeting, accounting, and procurement of construction and other miscellaneous contracts.

The Moving to Work Agreement permits MPHA to combine funding awarded to it annually pursuant to Section 8 (o), Section 9 (d), and Section 9 (e) of the 1937 Housing Act into a single, authority-wide funding source ("MTW Funds"). MPHA has elected to combine all MTW Funds and use the MTW Funds with the full flexibility permitted by the Moving to Work Agreement.

### **LOCAL DETERMINATION ON FEES**

As permitted under the First Amendment to Moving to Work Agreement, MPHA may design and implement a local asset management program which allows fees that exceed the levels set forth by HUD's asset management requirements. Because MPHA may utilize MTW Housing Choice Voucher (HCV) program funds for public housing capital expenditures, MPHA's local asset management plan would permit a management fee chargeable to the HCV program to cover the Central Office Cost Center's oversight and management of HCV-funded capital improvements. The costs the Central Office will bear include, but are not limited to, duties related to general capital planning, processing and reporting of VMS capital expenditure reimbursements, preparation of reports, budgeting, accounting, and procurement of construction and other miscellaneous contracts. The management fee charged will be 10% of the HCV-funded capital improvement costs and consistent with the fee amount permitted if the capital improvements were funded by the Capital Fund grant.

### **LOCAL DETERMINATIONS ON THE ASSIGNMENT OF COSTS**

As permitted under the First Amendment to Moving to Work Agreement, MPHA may apply local determinations with respect to front line, prorated, and shared resources, fee costs, and other aspects of

such requirements, to meet the objectives of the MTW program. Major building systems; like elevators, heating, electrical, and mechanical systems require specialized expertise to maintain. The MPHA employs operating maintenance engineers and other specialized staff that are assigned to the projects and charged directly in accordance with HUD's asset management requirements. However, supervision and daily work inspection and direction as well as contract administration and contractor oversight for such systems are performed by a central manager. The expertise required to oversee this work is not a function that on-site staff can typically provide. MPHA will reasonably prorate the actual labor costs for the central manager when performing work related to those tasks previously described.

MPHA employs pest control specialists to treat properties in prevention and response to pests. In particular the coordination of treatment schedules, treatment of surrounding units, documentation of methods and chemicals applied, scheduling out treatment machines, ordering and controlling distribution of chemicals, determining and insuring proper training, etc. is best done by centralized administration. MPHA will reasonably prorate the actual labor costs for a central supervisor when performing work related to those tasks previously described.

The Changes in Financial Management and Reporting for Public Housing Agencies Under the New Operating Fund Rule (24 CFR part 990) Supplement to HUD Handbook 7475.1 REV., CHG-1, Financial Management Handbook states that "Where it is not economical to have full-time personnel dedicated to a specific AMP, the PHA may establish a reasonable method to spread these personnel costs to the AMPs receiving the service. Shared resource costs are distinguished from front-line prorated costs in that the services being shared are limited to a few AMPs as opposed to being prorated across all AMPs. MPHA will be implementing a new preventive maintenance program in 2019. The Quality Maintenance Program (QMP) will deliver an improved approach to grounds, janitorial, pest control, and major systems maintenance through the establishment of scheduled work tasks that includes modest repairs and replacements due to wear-and-tear. The QMP will prioritize care and servicing of equipment, unit interiors, common areas, and other building components for the purpose of maintaining satisfactory operating condition, by providing systematic inspection, detection, and correction of issues either before they occur or before they develop into major defects. MPHA intends to use maintenance crew(s) that will work across properties within and across asset management projects to perform QMP work. MPHA will consider these costs as shared costs and charge the fully burdened labor costs for these crews based on actual hours work at a project. Materials and other directly related costs for this work; i.e. auto insurance, cell phones, etc., will be prorated to the projects on a reasonable basis.

MPHA reserves the right to employ full MTW Single Fund flexibility across properties and programs.

The additional HCV-funded capital improvement fee, the central management of specialized maintenance staff, major building systems, pest control program administration, and the QMP crews would be the only deviations from HUD's asset management guidelines.



## APPENDIX F: Planned Capital Expenditures

### CAPITAL NEEDS DATA

MPHA's housing stock is comprised of 42 high-rise buildings, 736 scattered site homes, 184 rowhouse units, and three maintenance, administrative, and service facilities. Forty of the 42 high-rise buildings in MPHA's inventory were built in the 1960's and early 1970's; MPHA's single-family homes range from two to 100+ years old, and our single remaining row house development is 65 years old. MPHA completed its comprehensive physical needs assessment process (PNA) in 2015, which included contracting with specialty consultants to assess major building systems such as HVAC, roofs, facades, and elevators. Utilizing field data collection tools, MPHA gathered needs data on all property components including current ages and conditions. Life cycle profiles, and replacement or repair costs were established for each building component, and needs related to life safety/code compliance, security, and energy savings were noted as such and all repair/replace actions were assigned a priority level relative to all MPHA capital needs. MPHA updates this data on an annual basis to reflect completed work and any changes to building conditions.

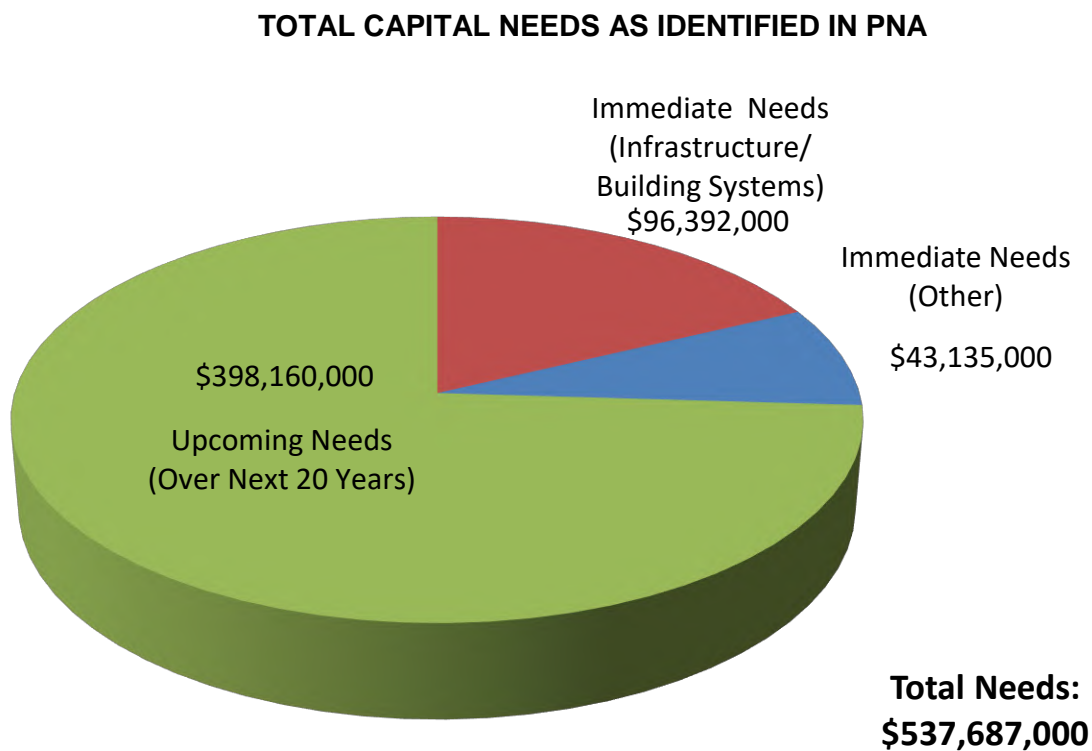
MPHA's comprehensive analysis indicates it has a current unmet need of \$139.5 million (as of 2018) that will grow to over \$500 million over the next twenty (20) years. These figures do not take into account applied capital funding as it is difficult to predict future funding levels and availability. This unmet need figure represents building components that are at or have exceeded their estimated useful life. When formulating its annual capital plan, MPHA is forced to make difficult decisions between competing needs due to continual insufficient funding. To aid in capital planning with limited resources MPHA considers several factors including:

1. The type of need:
  - Building Systems/Infrastructure (e.g. mechanical systems, plumbing and electrical systems, security systems, fire protection systems, roofs/façades, windows, elevators, etc.) – Components that are required to keep the building functioning and safe.
  - Building Site Work, Interiors & Equipment/Furnishings (apartment kitchen and bath rehab, landscaping/site improvements, community room furnishings, building amenities, etc.) – Components that address livability and resident quality of life.
2. The remaining useful life of the building component, which generally ranges between 0 – 20 years.
3. The urgency of action relative to other competing capital needs:
  - Low: This action is not currently impeding building functionality or safety and may be deferred. Quality of life may be impacted by deferment.
  - Medium: This action is not currently impeding building functionality or safety, but should be done with in the next 2-5 years. Quality of life may already be impacted and manageable component failure may occur by deferment.

- **High:** This action is of high urgency and necessary to address building functionality and livability and should be done within the next 1-2 years. Quality of life is likely impacted and component failures will become more frequent by deferment.
- **Urgent:** This action should not be deferred and must be done as soon as possible. Building functionality or safety is currently compromised.

## PHYSICAL NEEDS ASSESSMENT BREAKDOWN

MPHA's 20-year capital needs are illustrated below:



As shown above, a large portion of our immediate capital needs are infrastructure/building systems; due to their age, systems and infrastructure at many of our buildings have exceeded their life expectancy and have started to fail. MPHA deems a portion of these items as high or urgent needs that could become life safety needs if left unaddressed. Additionally, as building codes have evolved, we need to address increased life safety requirements such as retrofitting our high-rise buildings with sprinkler systems. MPHA has made infrastructure/building systems a priority and will target these types of improvements over the next several years.

## FY2019 SIGNIFICANT CAPITAL EXPENDITURES BY DEVELOPMENT

MPHA bases its capital plans on an expected Capital Fund Program (CFP) allocation of \$14.825 million for 2019. CFP funded activities that were initiated under previous funding cycles, but not fully completed in prior years, will carry over and experience expenditures in 2019. Additionally, a portion of the activities slated for 2019's \$14.825 million budget will not be fully expended in 2019 and will carry into 2020. This expenditure schedule is based on the assumption of receiving the Capital Fund grant by the end of March 2019. Expenditures may vary significantly if grant awards are delayed. MPHA has estimated approximately \$18.7 million in Capital Fund expenditures for FY2019 (see following charts) targeting specific projects in six of its seven Asset Management Projects (AMPs). The level and timing of these expenditures will vary depending on the final formula amount and the grant release date.

### CAPITAL FUND PROGRAM ACTIVITIES – FY 2019

AMP	PROJ	ADDRESS	WORK ITEMS	BUDGET	2019 EXPENDITURES
N/A	N/A	N/A	Administration	\$1,482,500	\$1,482,425
N/A	N/A	N/A	Audit fee	\$10,000	\$10,000
N/A	N/A	TBD	Pre-development activities	\$500,000	\$100,000
2	Varies	Scattered Sites	Roof replacement, infrastructure, comprehensive modernization	\$1,000,000	\$500,000
3	23	315 Lowry Avenue N	Exterior metal panel replacement	\$250,000	\$225,000
3	28	901 4 <sup>th</sup> Avenue N	Generator installation	\$400,000	\$350,000
4	10	311 University Ave NE	Switch gear replacement	\$400,000	\$350,000
4	33	828 Spring Street NE	Heating system upgrades	\$400,000	\$375,000
6	6	620 Cedar Avenue S	Façade restoration; roof & window replacement	\$1,500,000	\$1,000,000
6	6	1627 S 6 <sup>th</sup> Street	Elevator modernization	\$625,000	\$600,000
6	6	1611 S 6 <sup>th</sup> Street	Piping, apartment upgrades, fire alarm system replacement/fire suppression retrofit, HVAC improvements	\$5,000,000	\$3,000,000
7	17	2728 E Franklin Avenue	Generator & switch gear replacement	\$400,000	\$350,000
7	31	Horn Towers	Elevator modernization	\$1,875,000	\$1,000,000
N/A	N/A	Area-Wide	Contingency	\$982,500	\$200,000
<b>TOTAL – 2019 CAPITAL BUDGET</b>				<b>\$14,825,000</b>	

**CARRYOVER CAPITAL FUND PROGRAM ACTIVITIES**

(These are activities from a previously approved MTW annual and five-year CFP plan that will incur expenditures during FY 2019)

AMP	PROJ	ADDRESS	WORK ITEMS	BUDGET	2019 EXPENDITURES
N/A	N/A	N/A	Pre-development activities	\$500,000	\$450,000
2	Varies	Scattered Sites	Roof replacement	\$200,000	\$50,000
3	20.4	2415 N 3 <sup>rd</sup> Street	Security improvements	\$150,000	\$100,000
3	26	1710 Plymouth Ave	Elevator modernization	\$295,000	\$50,000
3	42	314 Hennepin Ave	Fire alarm system replacement, elevator modernization	\$915,000	\$200,000
5	9	Hiawatha Towers	Fire alarm system replacement	\$455,000	\$200,000
6	6	1627 S 6 <sup>th</sup> Street	Piping, apartment upgrades, fire alarm system replacement, HVAC improvements	\$4,355,000	\$500,000
6	15	1515 Park Ave S	Piping, apartment upgrades, HVAC improvements	\$3,600,000	\$3,000,000
7	18.4	3755 Snelling	Piping, apartment upgrades, fire alarm system replacement, HVAC improvements	\$1,200,000	\$600,000
7	36	2121 Minnehaha	Piping, fire alarm system replacement, apartment upgrades, switch gear/generator replacement	\$3,575,000	\$3,000,000
N/A	N/A	Area-Wide	Quality Maintenance Program	\$2,000,000	\$1,000,000
<b>TOTAL – 2019 PLANNED EXPENDITURES</b>					<b>\$18,692,425</b>

*\*Estimates are subject to final budget approval by the MPHA Board of Commissioners.*

## FIVE-YEAR CAPITAL NEEDS PLAN

The five-year Capital needs table illustrates total funding needed to address all capital needs at MPHA properties 2019-2023.

Minneapolis Public Housing Authority 2019 Five-Year Schedule of Capital Needs						
		FY19	FY20	FY21	FY22	FY23
<b>AMP 1 - Rowhouses</b>						
AMP	Project	Address	Bldgs	Units		
1	1	Glendale	28	184	15,903,076	1,062,472
			28	184	15,903,076	1,062,472
<b>Total AMP 1</b>					0	106,003
					0	106,003
<b>AMP 2 - Scattered Site/Single Family</b>						
AMP	Project	Address	Bldgs	Units		
2	Various	Various	730	730	32,183,319	3,806,188
			730	730	32,183,319	3,806,188
<b>Total AMP 2</b>					3,011,354	1,620,623
					3,011,354	1,620,623
<b>AMP 3 - North</b>						
AMP	Project	Address	Bldgs	Units		
3	3	800 North Fifth Ave	1	66	1,096,471	177,779
			1	62	544,288	217,082
3	20.4	2415 North Third Street	1	62	423,028	41,950
3	20.5	3116 North Oliver Ave	1	31	46,573	194,019
3	23	315 North Lowry Ave	1	193	235,969	187,391
3	25	600 North 18th Ave	1	239	1,060,568	0
3	26	1710 North Plymouth Ave	1	84	1,003,546	0
3	28	901 North 4th Ave	1	48	41,950	0
3	37	1314 North 44th Ave	1	220	3,243,290	26,219
3	42	314 Hennepin Ave	1	299	901,971	3,701,047
3	50	350 Van White Memorial Blvd	1	102	367,901	0
			10	1,344	8,098,889	4,645,688
<b>Total AMP 3</b>					1,808,509	1,939,186
					1,808,509	1,939,186
<b>AMP 4 - Northeast</b>						
AMP	Project	Address	Bldgs	Units		
4	10	311 NE University Ave	1	49	1,169,095	598,477
4	15.4	710 NE Second Street	1	35	1,162,773	190,897
4	15.5	616 NE Washington Ave	1	35	1,367,497	192,278
4	21.4	1206 NE Second Street	1	57	1,996,043	370,169
4	21.5	1900 NE Third Street	1	32	1,798,994	338,949
4	21.6	809 NE Spring Street	1	32	1,930,282	658,596
4	32	1717 NE Washington Street	1	182	4,596,546	1,542,513
4	33	828 NE Spring Street	1	189	3,601,064	1,120,323
4	35	1815 NE Central Ave	1	333	1,467,520	284,664
			9	944	19,089,814	7,826,345
<b>Total AMP 4</b>					1,944,651	1,893,013
					1,944,651	2,436,493

Minneapolis Public Housing Authority  
2019 Five-Year Schedule of Capital Needs

	FY19	FY20	FY21	FY22	FY23
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AMP 5 - Hiawatha

AMP 5	Project	Address	Bldgs	Units					
5	9	Hiawatha Towers	3	281	8,027,781	997,149	509,505	156,879	96,273
5	18.5	2533 South First Ave	1	42	1,354,834	264,286	0	20,975	0
5	19	1920 South Fourth Ave	1	110	2,588,831	158,592	393,823	593,415	0
5	24	1707 South Third Street	1	199	1,945,795	168,175	136,338	41,950	655,471
5	34	2419/33 South Fifth Ave	2	254	1,426,119	398,526	3,298,510	83,900	0
Total AMP 5			8	886	15,343,360	1,986,728	4,338,176	897,119	751,744

AMP 6 - Cedars

AMP 6	Project	Address	Bldgs	Units					
6	6 & 30	Cedars Community	4	539	24,099,889	6,319,964	165,699	717,903	168,515
6	8	Elliot Twins	2	174	7,108,141	582,831	1,503,301	558,142	794,737
6	16	1515 South Park Ave	1	182	5,009,623	365,765	1,291,776	434,942	31,463
Total AMP 6			7	895	36,217,653	7,268,560	2,960,776	1,710,987	994,715

AMP 7 - Horn

AMP 7	Project	Address	Bldgs	Units					
7	14	1415 East 22nd Street	1	129	1,450,438	103,344	0	41,950	206,996
7	17	2728 East Franklin Ave	1	151	6,459,785	1,287,922	694,294	166,815	79,181
7	18.4	3755 South Snelling Ave	1	28	1,150,123	367,044	0	41,950	0
7	22	3205 East 37th Street	1	28	1,039,910	362,390	0	41,950	0
7	31	Horn Towers	3	491	13,487,339	784,738	1,928,099	419,501	170,947
7	36	2121 South Minnehaha Ave	1	110	3,972,417	1,478,910	115,363	160,275	26,219
Total AMP 7			8	937	27,560,012	4,384,348	2,737,756	872,441	483,343

Management, Maintenance, and Special Facilities

Project	Location	Bldgs	Units						
29	1015 North Fourth Ave	1		224,989	0	253,062	0	188,668	
93	1301 Bryant Maintenance Off.	1		128,214	30,705	96,688	0	590,867	
96	1001 Washington Main Office	1		1,914,148	1,159,027	363,624	0	0	
Total MM&S			3	2,267,351	1,189,732	713,374	0	779,535	
GRAND TOTAL			800	5,920	168,847,233	35,623,262	17,814,173	13,136,605	9,005,639



## ASSET PRESERVATION STRATEGIES

As an MTW agency, MPHA has been able to utilize fungible authority to increase the amount of funds allocated to capital improvements above the CFP allocation from HUD. However, with the current administration's proposed budget cuts to all PHA programs, our ability to dedicate additional funds to capital investments will become increasingly difficult. The ever-widening gap between capital improvement needs and the dollars allocated to MPHA through HUD's Capital Fund Program has prompted MPHA to develop multiple asset preservation strategies.

These include the following:

- A. Participating in special programs offered by HUD.
- B. Implementation of repositioning/redevelopment strategies.
- C. Seeking funding opportunities other than HUD's Capital Fund Program and devising other strategic initiatives.

### A. Preserving Assets through HUD Programs

**Energy Performance Contracting** – In 2010, MPHA contracted with Honeywell International, Inc. to implement \$33.6 million of energy conservation measures throughout MPHA's properties. The contract was financed under HUD's Energy Performance Contracting (EPC) program incentive to borrow private capital to fund energy improvements. This "green" project, which included replacing 40-to-50-year-old boilers and installing low-flow toilets and shower heads, is now complete and on its fifth year of a 20-year energy savings guarantee by Honeywell.

As MPHA and Honeywell transitioned from construction to energy savings monitoring, other savings and improvement opportunities were discovered. The original loan was refinanced to a lower interest rate and an additional \$3.36 million worth of improvements have been completed. These included enhanced LED site lighting at all MPHA high-rise sites as well as roof replacement at the three Horn Towers buildings.



Typical Old High-rise Boiler



New Boiler Installation



## B. Asset Redevelopment & Repositioning

During 2017 and continuing into 2018, MPHA initiated an in-depth portfolio analysis to determine the best way to enhance each property's value while preserving its long-term viability. This evaluation will look at the current condition, social and strategic value, and income potential of each property that will result in a series of recommendations for funding redevelopment or major rehabilitation. Steered by MPHA's *Guiding Principles for Redevelopment and Capital Investments*, this analysis will launch a 10-year improvement effort of MPHA's portfolio. A few strategies MPHA has begun to explore:

- MPHA looks for opportunities to reposition some of its single-family scattered housing properties with the most extensive capital, operational and maintenance needs and replace these with small clusters of town house or other multi-unit developments.
- MPHA is also exploring “micro” or “tiny” homes and how we may be able to incorporate these concepts into our housing stock, both within the scattered site portfolio and our highrise properties. By adopting design concepts that are both efficient and sufficient, MPHA envisions a housing stock that may be more sustainable in the long term.
- MPHA is researching the cost-effectiveness and design attributes of modular home construction to determine if this model could be used for new construction projects.
- MPHA is also in the process of assessing options for the preservation of 184 units at its Glendale Townhomes in Prospect Park, our oldest major property. This 12.5-acre site with 184 family townhome units has extensive capital needs and MPHA is considering several options that will ensure the preservation of these units in the long term. The needs at this property are identified in the five-year schedule of capital needs. As the preservation strategy is formulated for this site, MPHA may allocate additional capital funds to support these efforts.
- The Elliot Twins high-rise property is an example of an existing property that could be used to develop additional affordable and public housing. It is in an area experiencing increasing redevelopment and the grounds and surface parking lot could accommodate additional housing units. MPHA will further study this site and potential development plans into 2019.
- MPHA's administrative building at 1001 Washington Avenue North is on the edge of Minneapolis' North Loop neighborhood, which is increasingly becoming fully developed. MPHA will examine whether it makes sense financially to redevelop its 1001 Washington site to take advantage of the real estate market and to create administrative space that better meets its needs. MPHA is also considering disposition and/or redevelopment of its warehouse facility located at 1301 Bryant Avenue North as well as the neighboring scattered sites family units located within the same city block.
- MPHA is exploring new strategies to address the challenges of Heritage Park, including the possible return of units to MPHA control. Although RAD appears to not be the best option for this site, MPHA is exploring other developments where RAD may be appropriate and feasible. However, no specific development has currently been identified as a possible RAD project.

- MPHA has over 100 Faircloth units and will continue to examine development proposals to utilize these units. In addition to finding locations for the Faircloth units, MPHA will continue to solicit public and private funding sources to help pay for the acquisition and development activities needed to put the units into service. In 2018, MPHA began construction of its Minnehaha Townhomes Development in south Minneapolis. Due to a combination of public and private funding sources, MPHA will complete construction of this 16-unit public housing development for families experiencing homelessness in 2019.
- MPHA owns three vacant single-family lots that it could use to implement the strategies identified above, including the use of Faircloth units, energy-efficient homes, or micro-homes. In addition, MPHA owns approximately 14 acres of vacant land in its Heritage Park development and will continue to monitor market conditions and development opportunities so that it can develop these parcels to the fullest at the appropriate time.

### **C. Supplemental Funding Sources & Other Strategic Initiatives**

Due to the extent of MPHA's capital needs and the insufficient level of funding provided by HUD, the need to cobble funds from various sources outside the traditional HUD's CFP has become a much-needed activity. In the past, MPHA has been successful in securing grants from the Met Council and the City in redevelopment activities and from the State for affordable housing preservation. For example, MPHA secured a \$2.2+ million public housing preservation grant from the State of Minnesota in 2018 to help fund major plumbing replacement, fire protection installation, apartment improvements, and HVAC upgrades at its 1611 South Sixth Street building, and elevator modernization at 1627 South Sixth Street. In 2019, MPHA will compete again for affordable housing preservation grants available through the State as well as other possible sources.

Although MPHA has implemented significant energy conservation measures through its EPC program and other means, we believe greater energy savings can be accomplished through additional retrofits and other initiatives. MPHA has contracted with experts in ultra-energy efficient and passive home design to develop a retrofit package for our single-family homes and highrise properties, which will be tested in with pilot projects. The goal of the pilot projects is, at a minimum, to devise a set of replicable improvements that can be implemented at other single family and highrise properties which will yield similar or same energy reductions in our entire portfolio.

While these improvements may have longer pay-back periods, there is a potential of achieving multiple benefits including utility (operational) savings, a reduction in capital needs, and newer components or systems that have longer than normal useful life cycles. In addition to replicable improvements, MPHA and its energy experts aim to define additional improvements tailored to the pilot projects (which may include on-site renewable energy components) that can be undertaken to bring those properties to or as close to net zero as possible. Although this will prove particularly challenging at our highrise properties, if attainable, MPHA believes these innovations could help significantly pave the way to long-term sustainability for our properties.

MPHA will also work to develop an ultra-energy efficient new construction model that could become our "standard" for all new single-family home or multi-unit developments. This will also be a pilot project that

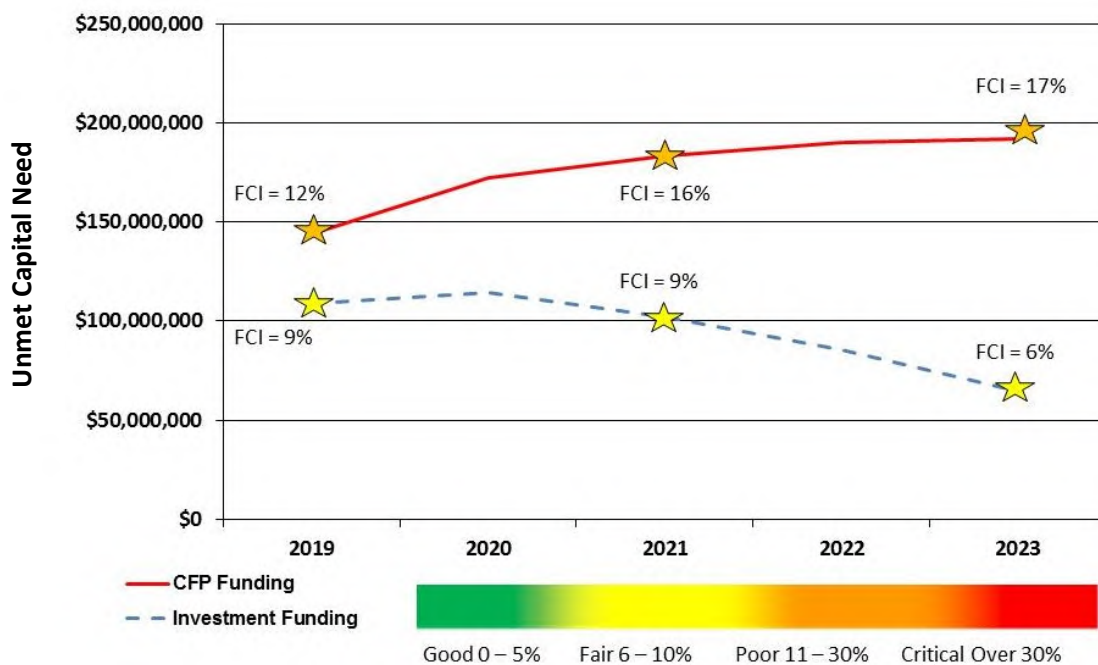
could be developed on an existing vacant lot or as a replacement of an obsolete home with significant capital needs.

## FACILITY CONDITION INDEX

MPHA assesses the physical condition and tracks the performance of our properties by utilizing an industry-accepted tool known as the Facility Condition Index (FCI). The FCI is used by industries that have responsibility over large capital asset inventories such as higher education, municipalities, military, and increasingly, public housing authorities. The FCI is a measurement that considers the “growing” capital renewal needs year over year and measures it against the replacement value of an asset (FCI = Need/Asset Value). MPHA uses this information to understand the current state of each property, to forecast a building’s future performance based on various funding levels, and to formulate asset preservation strategies such as those mentioned above that will keep our housing stock viable for the long term.

MPHA’s goal is to raise significant capital to implement a multi-year strategy for addressing capital needs and preserving our assets. Through recent and projected Capital Fund Program appropriations, MPHA anticipates approximately \$52.2 million may be available to implement capital work over the next five-year period, which includes expenditures for capital projects that are currently or will soon be underway at the time this report was published. The following chart illustrates MPHA’s Facility Condition Index (FCI) for the next five years assuming projected CFP appropriations, as well as the capital MPHA will need to raise to sustain a “Good” to “Fair” FCI for our properties during this timeframe. The trend lines indicate unmet needs after funding is applied.

### COMPARISON OF FUNDING FOR CAPITAL IMPROVEMENTS BASED ON FACILITY CONDITION INDEX



Assuming HUD's projected CFP funding levels over the next several years, unmet capital needs will continue to rise and MPHA's assets will slip further into the "Poor" range. Aging properties and reductions in funding levels have made asset preservation an increasingly difficult challenge. MPHA must continue to aggressively pursue strategic opportunities that improve MPHA's asset condition through initiatives that include development, creative financing, and capital investment in existing assets. To bring our properties into the "Good" to "Fair" range and reduce unmet capital work, MPHA will need to identify investment funding that can yield approximately \$30M annually over the next several years. While this will prove to be a significant challenge, MPHA must take a proactive approach in protecting these extremely valuable assets for our current and future residents.

## **APPENDIX G**

### **ANNUAL STATEMENT/ PERFORMANCE AND EVALUATION REPORT (HUD Form 50075.1)**

Report begins on next page.

Annual Statement/Performance and Evaluation Report  
 Capital Fund Program, Capital Fund Program Replacement Housing Factor and  
 Capital Fund Financing Program

2019 MTW Annual Plan  
 U.S. Department of Housing and Urban Development  
 Office of Public and Indian Housing  
 OMB No. 2577-0226  
 Expires 06/30/2017

Part I: Summary					
PHA Name:  Minneapolis Public Housing Authority		Grant Type and Number Capital Fund Program Grant No: MN46P00250116 Replacement Housing Factor Grant No: Date of CFFP:			FFY of Grant: 2016 FFY of Grant Approval:
Type of Grant <input type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no:) <input checked="" type="checkbox"/> Performance and Evaluation Report for Period Ending: 12/31/2017 <input type="checkbox"/> Final Performance and Evaluation Report					
Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost <sup>1</sup>	
		Original	Revised <sup>2</sup>	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) <sup>3</sup>				
3	1408 Management Improvements				
4	1410 Administration (may not exceed 10% of line 21)				
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs				
8	1440 Site Acquisition				
9	1450 Site Improvement				
10	1460 Dwelling Structures				
11	1465.1 Dwelling Equipment—Nonexpendable				
12	1470 Non-dwelling Structures				
13	1475 Non-dwelling Equipment				
14	1485 Demolition				
15	1492 Moving to Work Demonstration	10,229,665	10,229,665	10,229,665	6,861,856
16	1495.1 Relocation Costs				
17	1499 Development Activities <sup>4</sup>				

<sup>1</sup> To be completed for the Performance and Evaluation Report.

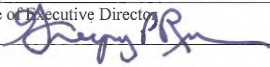
<sup>2</sup> To be completed for the Performance and Evaluation Report or a Revised Annual Statement.

<sup>3</sup> PHAs with under 250 units in management may use 100% of CFP Grants for operations.

<sup>4</sup> RHF funds shall be included here.

Annual Statement/Performance and Evaluation Report  
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U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing  
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Type of Grant <input type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no: ) <input checked="" type="checkbox"/> Performance and Evaluation Report for Period Ending: 12/31/2017 <input type="checkbox"/> Final Performance and Evaluation Report					
Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost <sup>1</sup>	
		Original	Revised <sup>2</sup>	Obligated	Expended
18a	1501 Collateralization or Debt Service paid by the PHA				
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)				
20	Amount of Annual Grant: (sum of lines 2 - 19)	10,229,665	10,229,665	10,229,665	6,861,856
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security - Soft Costs				
24	Amount of line 20 Related to Security - Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				
Signature of Executive Director 		Date 9-12-18	Signature of Public Housing Director		Date

<sup>1</sup> To be completed for the Performance and Evaluation Report.

<sup>2</sup> To be completed for the Performance and Evaluation Report or a Revised Annual Statement.

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U.S. Department of Housing and Urban Development  
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<sup>1</sup> Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

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Expires 06/30/2017

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PHA Name:  Minneapolis Public Housing Authority		Grant Type and Number Capital Fund Program Grant No: MN46P00250117 Replacement Housing Factor Grant No: Date of CFFP:			FFY of Grant: 2017 FFY of Grant Approval:
Type of Grant <input type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input checked="" type="checkbox"/> Performance and Evaluation Report for Period Ending: 12/31/2017 <input type="checkbox"/> Revised Annual Statement (revision no: ) <input type="checkbox"/> Final Performance and Evaluation Report					
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		Original	Revised <sup>2</sup>	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) <sup>3</sup>				
3	1408 Management Improvements				
4	1410 Administration (may not exceed 10% of line 21)				
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs				
8	1440 Site Acquisition				
9	1450 Site Improvement				
10	1460 Dwelling Structures				
11	1465.1 Dwelling Equipment—Nonexpendable				
12	1470 Non-dwelling Structures				
13	1475 Non-dwelling Equipment				
14	1485 Demolition				
15	1492 Moving to Work Demonstration	10,232,133	10,232,133	3,088,834	0
16	1495.1 Relocation Costs				
17	1499 Development Activities <sup>4</sup>				

<sup>1</sup> To be completed for the Performance and Evaluation Report.

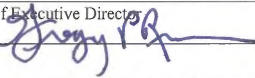
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<b>Part I: Summary</b>					
PHA Name:  Minneapolis Public Housing Authority		Grant Type and Number Capital Fund Program Grant No: MN46P00250117 Replacement Housing Factor Grant No: Date of CFFP:			FFY of Grant:2017 FFY of Grant Approval:
Type of Grant <input type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no: ) <input checked="" type="checkbox"/> Performance and Evaluation Report for Period Ending: 12/31/2017 <input type="checkbox"/> Final Performance and Evaluation Report					
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		Original	Revised <sup>2</sup>	Obligated	Expended
18a	1501 Collateralization or Debt Service paid by the PHA				
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)				
20	Amount of Annual Grant:: (sum of lines 2 - 19)	10,232,133	10,232,133	3,088,834	0
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security - Soft Costs				
24	Amount of line 20 Related to Security - Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				
Signature of Executive Director 		Date 9-12-18		Signature of Public Housing Director _____ Date _____	

<sup>1</sup> To be completed for the Performance and Evaluation Report.

<sup>2</sup> To be completed for the Performance and Evaluation Report or a Revised Annual Statement.

<sup>3</sup> PHAs with under 250 units in management may use 100% of CFP Grants for operations.

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Expires 06/30/2017

Part I: Summary					
PHA Name:  Minneapolis Public Housing Authority		Grant Type and Number Capital Fund Program Grant No: MN46P00250118 Replacement Housing Factor Grant No: Date of CFFP:			FFY of Grant: 2018 FFY of Grant Approval:
Type of Grant <input type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input checked="" type="checkbox"/> Performance and Evaluation Report for Period Ending: <input type="checkbox"/> Revised Annual Statement (revision no:) <input type="checkbox"/> Final Performance and Evaluation Report					
Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost <sup>1</sup>	
		Original	Revised <sup>2</sup>	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) <sup>3</sup>				
3	1408 Management Improvements				
4	1410 Administration (may not exceed 10% of line 21)				
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs				
8	1440 Site Acquisition				
9	1450 Site Improvement				
10	1460 Dwelling Structures				
11	1465.1 Dwelling Equipment—Nonexpendable				
12	1470 Non-dwelling Structures				
13	1475 Non-dwelling Equipment				
14	1485 Demolition				
15	1492 Moving to Work Demonstration	14,824,249	14,824,249	0	0
16	1495.1 Relocation Costs				
17	1499 Development Activities <sup>4</sup>				

<sup>1</sup> To be completed for the Performance and Evaluation Report.

<sup>2</sup> To be completed for the Performance and Evaluation Report or a Revised Annual Statement.

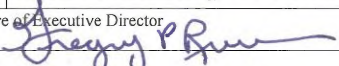

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PHA Name:		Grant Type and Number Capital Fund Program Grant No: MN46P00250118 Replacement Housing Factor Grant No: Date of CFFP:			FFY of Grant:2018 FFY of Grant Approval:
Minneapolis Public Housing Authority					
Type of Grant <input type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no: ) <input checked="" type="checkbox"/> Performance and Evaluation Report for Period Ending: <input type="checkbox"/> Final Performance and Evaluation Report					
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Signature of Executive Director		Date		Signature of Public Housing Director	
		9-12-18			

<sup>1</sup> To be completed for the Performance and Evaluation Report.

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<sup>3</sup> PHAs with under 250 units in management may use 100% of CFP Grants for operations.

<sup>4</sup> RHIF funds shall be included here.

<sup>2</sup> To be completed for the Performance and Evaluation Report.

U.S. Department of Housing and Urban Development  
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Expires 06/30/2017

Part I: Summary					
PHA Name:  Minneapolis Public Housing Authority		Grant Type and Number Capital Fund Program Grant No: Estimated MN46P00250119 Replacement Housing Factor Grant No: Date of CFFP:			FFY of Grant: Est. 2019 FFY of Grant Approval:
Type of Grant <input type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no:) <input checked="" type="checkbox"/> Performance and Evaluation Report for Period Ending: <input type="checkbox"/> Final Performance and Evaluation Report					
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17	1499 Development Activities <sup>4</sup>				

<sup>1</sup> To be completed for the Performance and Evaluation Report.

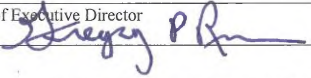
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Type of Grant <input type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no: ) <input checked="" type="checkbox"/> Performance and Evaluation Report for Period Ending: <input type="checkbox"/> Final Performance and Evaluation Report					
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23	Amount of line 20 Related to Security - Soft Costs				
24	Amount of line 20 Related to Security - Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				
Signature of Executive Director 		Date 9-12-19	Signature of Public Housing Director		Date

<sup>1</sup> To be completed for the Performance and Evaluation Report.

<sup>2</sup> To be completed for the Performance and Evaluation Report or a Revised Annual Statement.

<sup>3</sup> PHAs with under 250 units in management may use 100% of CFP Grants for operations.

<sup>4</sup> RHH funds shall be included here.

<sup>2</sup> To be completed for the Performance and Evaluation Report.

Annual Statement/Performance and Evaluation Report  
Capital Fund Program, Capital Fund Program Replacement Housing Factor and  
Capital Fund Financing Program

U.S. Department of Housing and Urban Development  
Office of Public and Indian Housing  
OMB No. 2577-0226  
Expires 06/30/2017

<sup>1</sup> Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.



Annual Statement/Performance and Evaluation Report  
 Capital Fund Program, Capital Fund Program Replacement Housing Factor and  
 Capital Fund Financing Program

U.S. Department of Housing and Urban Development  
 Office of Public and Indian Housing  
 OMB No. 2577-0157  
 Expires 3/31/2020

<b>Part I: Summary</b>					
PHA Name: Minneapolis PHA in and for the City of Minneapolis 1001 Washington Ave N Minneapolis, MN 55401		Grant Type and Number Capital Fund Program Grant No: Replacement Housing Factor Grant No: Date of CFFP:			FFY of Grant: 2018 FFY of Grant Approval:
Type of Grant <input checked="" type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no: ) <input type="checkbox"/> Performance and Evaluation Report for Period Ending: <input type="checkbox"/> Final Performance and Evaluation Report					
Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost <sup>1</sup>	
		Original	Revised <sup>2</sup>	Obligated	Expended
1	Total non-CFP Funds				
2	1406 Operations (may not exceed 20% of line 21) <sup>3</sup>				
3	1408 Management Improvements				
4	1410 Administration (may not exceed 10% of line 21)				
5	1411 Audit				
6	1415 Liquidated Damages				
7	1430 Fees and Costs				
8	1440 Site Acquisition				
9	1450 Site Improvement				
10	1460 Dwelling Structures				
11	1465.1 Dwelling Equipment—Nonexpendable				
12	1470 Non-dwelling Structures				
13	1475 Non-dwelling Equipment				
14	1485 Demolition				
15	1492 Moving to Work Demonstration	\$1,000,000			
16	1495.1 Relocation Costs				
17	1499 Development Activities <sup>4</sup>				

<sup>1</sup> To be completed for the Performance and Evaluation Report.

<sup>2</sup> To be completed for the Performance and Evaluation Report or a Revised Annual Statement.

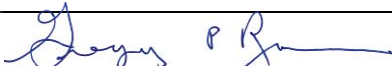
<sup>3</sup> PHAs with under 250 units in management may use 100% of CFP Grants for operations.

<sup>4</sup> RHF funds shall be included here.



Annual Statement/Performance and Evaluation Report  
 Capital Fund Program, Capital Fund Program Replacement Housing Factor and  
 Capital Fund Financing Program

U.S. Department of Housing and Urban Development  
 Office of Public and Indian Housing  
 OMB No. 2577-0226  
 Expires 3/31/2020

<b>Part I: Summary</b>					
PHA Name: Minneapolis PHA in and for the City of Minneapolis		Grant Type and Number Capital Fund Program Grant No: Replacement Housing Factor Grant No: Date of CFFP:			FFY of Grant: 2018 FFY of Grant Approval:
Type of Grant <input checked="" type="checkbox"/> Original Annual Statement <input type="checkbox"/> Reserve for Disasters/Emergencies <input type="checkbox"/> Revised Annual Statement (revision no: ) <input type="checkbox"/> Performance and Evaluation Report for Period Ending: <input type="checkbox"/> Final Performance and Evaluation Report					
Line	Summary by Development Account	Total Estimated Cost		Total Actual Cost <sup>1</sup>	
		Original	Revised <sup>2</sup>	Obligated	Expended
18a	1501 Collateralization or Debt Service paid by the PHA				
18ba	9000 Collateralization or Debt Service paid Via System of Direct Payment				
19	1502 Contingency (may not exceed 8% of line 20)				
20	Amount of Annual Grant:: (sum of lines 2 - 19)	<b>\$1,000,000</b>			
21	Amount of line 20 Related to LBP Activities				
22	Amount of line 20 Related to Section 504 Activities				
23	Amount of line 20 Related to Security - Soft Costs				
24	Amount of line 20 Related to Security - Hard Costs				
25	Amount of line 20 Related to Energy Conservation Measures				
Signature of Executive Director 		Date 03/19/2018		Signature of Public Housing Director _____ Date _____	

<sup>1</sup> To be completed for the Performance and Evaluation Report.

<sup>2</sup> To be completed for the Performance and Evaluation Report or a Revised Annual Statement.

<sup>3</sup> PHAs with under 250 units in management may use 100% of CFP Grants for operations.

<sup>4</sup> RHF funds shall be included here.

Annual Statement/Performance and Evaluation Report  
 Capital Fund Program, Capital Fund Program Replacement Housing Factor and  
 Capital Fund Financing Program

U.S. Department of Housing and Urban Development  
 Office of Public and Indian Housing  
 OMB No. 2577-0226  
 Expires 3/31/2020

Part II: Supporting Pages								
PHA Name: Minneapolis PHA in and for the City of Minneapolis		Grant Type and Number Capital Fund Program Grant No: CFFP (Yes/ No): Replacement Housing Factor Grant No:			Federal FFY of Grant: 2018			
Development Number Name/PHA-Wide Activities	General Description of Major Work Categories	Development Account No.	Quantity	Total Estimated Cost		Total Actual Cost		Status of Work
				Original	Revised <sup>1</sup>	Funds Obligated <sup>2</sup>	Funds Expended <sup>2</sup>	
MN002000002	In 1992, the Minneapolis PHA (MPHA) began evaluating our scattered site portfolio for lead-based paint (LBP) hazards. 426 scattered sites had LBP hazards and were abated. Approved abatement options utilized included encapsulation with a product rated for 20 years. We have now reached the end of this product's expected effective period, so it is time to evaluate the current performance of the abatements. MPHA will hire an LBP-certified contractor to inspect the 426 scattered sites that were abated for LBP 20 years ago. We have good records on which building components were abated, so we can target the inspections appropriately, saving time and	1492	1	\$300,000				

	money. All inspections will be completed within 9 months of award. As a Moving To Work agency, MPHA submits MTW 50058s to PIC and uses account 1492 for our entire capital grant. All grant activities will be conducted in accordance with Section 3 requirements and in compliance with the Regional Analysis of Impediments to AFFH and its addendum.							
MN002000002	Scattered site units that need further LBP abatement will be identified through the inspections described above. The type of abatement needed will be determined by the results of the inspections. MPHA will hire an LBP-certified contractor to perform the abatement work. This contractor will be different from, and independent of, the contractor hired to conduct the inspections. In terms of prioritizing abatements, we will start with units housing children under the age of 6. Next, we will abate units with older children and the highest number of LBP hazards found. After abatement activities are completed, LBP clearance testing will be conducted by a contractor that is different from, and independent of, the contractor who conducted the abatement. This contractor may be the same as the	1492	1	\$700,000				

[illegible]

<sup>1</sup> To be completed for the Performance and Evaluation Report or a Revised Annual Statement.

<sup>2</sup> To be completed for the Performance and Evaluation Report.

<sup>1</sup> To be completed for the Performance and Evaluation Report or a Revised Annual Statement.

<sup>2</sup> To be completed for the Performance and Evaluation Report.



<sup>1</sup> Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

<sup>1</sup> Obligation and expenditure end dated can only be revised with HUD approval pursuant to Section 9j of the U.S. Housing Act of 1937, as amended.

## APPENDIX H: Glossary of Commonly Used Housing Terms

**ARRA** – The **American Recovery & Reinvestment Act of 2009** (“**Recovery Act**”) was a stimulus package enacted by Congress in 2009. Though the primary objective was to save and grow jobs, the Recovery Act also provided temporary relief for programs most affected by the recession and allowed investments in infrastructure, education, health, and renewable energy.

**ACC - Annual Contributions Contract** is the written contract between HUD and a Public Housing Authority (PHA) under which HUD agrees to provide funding for a program (under the Housing Act of 1937), and the PHA agrees to comply with HUD requirements for the program.

**AMI - Area Median Income** - an estimate from the Department of Housing and Urban Development (**HUD**) of how much money families in a given area earn on average.

**AMP – Asset Management Projects** is a term used to identify the PHA’s property groupings.

**CFP - Capital Fund Program** is an annual grant in which HUD provides funds for the modernization and development of public housing beyond the scope of routine maintenance.

**CFR – Code of Federal Regulations** are published federal rules that define and implement laws; commonly referred to as “the regulations.”

**CDBG - Community Development Block Grant** is a flexible program that provides communities with resources to address a wide range of unique community development needs.

**CMTO - Creating Moves to Opportunity** is a nationwide collaboration between universities, foundations, and PHAs with the purpose of improving long-term outcomes of children by evaluating strategies that support Housing Choice Voucher (HCV) families in moving to higher opportunity neighborhoods.

**DOT - Declaration of Trust** is a legal instrument which grants **HUD** an interest in a public housing property. It also provides public notice that the property was developed, maintained, or operated with Federal assistance and is, therefore, held in **trust** by the public housing agency for the benefit of **HUD**.

**EPC - Energy Performance Contract** is a financing mechanism authorized by Congress designed to accelerate investment in cost-effective energy conservation measures in federally supported buildings such as public housing.

**Extremely Low-Income Family** – a family whose annual income does not exceed 30 percent of the area median income, as determined by HUD.

**Faircloth Authority** – named for a former U.S. Senator Faircloth and refers to additional public housing subsidy that MPHA is permitted to access, provided we can build or acquire the units.

**FSS – Family Self-Sufficiency Program** is a HUD program in which a PHA promotes self-sufficiency of assisted families, including the coordination of support services.

**FUP – Family Unification Vouchers** are special purpose vouchers provided to two different populations: families and former foster-care youth (ages 18-24) that are homeless or lack adequate housing. Eligible families are referred by the local child welfare agency to the PHA.

**HAP - Housing Assistance Payments contract** – a written contract between the PHA and a property owner established to provide rent subsidies on behalf of an eligible low-income family.

**HCV – Housing Choice Voucher (Also known as “Section 8”)** can be used to pay a portion of a tenant’s rent in a privately-owned apartment or home. Families contribute on average 30 percent of their income towards their rent and utilities and MPHA provides the rest. (Families can use the voucher to choose where they want to live within Minneapolis or outside the city.)

**HQS - Housing Quality Standards** are established by HUD and outline minimum life-safety requirements for any housing assisted under the voucher program.

**LURA – Land Use Restriction Agreement** is a legally binding contract requiring the parties to limit the use of a property for a specified term. LURAs are typically used in connection with low-income housing tax credits to ensure that a housing property is restricted to households who make a certain income (for example, 30% of Area Median Income) for an agreed-upon period. By agreement among the parties, this period need not match and may exceed the tax credit compliance period (for example, 30 years or more).

**LEP - Limited English Proficiency Plan** is developed by the PHA, per HUD requirements, to make reasonable efforts to provide free language assistance and meaningful access to a client who does not speak English as their primary language or has limited ability to read, write, speak, or understand English.

**Low-Income Family** – a family whose annual income does not exceed 80 percent of the area median income, as determined by HUD.

**LIHTC - Low-Income Housing Tax Credit** is a dollar-for-dollar tax credit in the United States for affordable housing investments that gives incentives for the utilization of private equity in the development of affordable housing aimed at low-income Americans.

**MTW – Moving to Work Demonstration Program** created by Congress in 1996 allows housing authorities to design and test innovative, locally-designed strategies for providing low-income families with affordable housing. MTW allows the agency to waive most HUD regulations if the agency meets at least one of three statutory objectives: (1) increasing housing choices, (2) creating opportunities for families with

**Portability** – A family utilizing a Housing Choice voucher can choose to rent a dwelling unit in a city outside their initial PHA.

**PBRA – Project-Based Rental Assistance** was authorized by Congress in 1974 to provide rental subsidies for eligible tenant families residing in newly constructed, substantially rehabilitated, and existing rental and cooperative apartment projects. Under it, developers (for-profit or non-profit) would build low-income housing and HUD would make up the difference between the HUD-approved rent (Contract Rent) for the assisted unit and the HUD-required rental contribution from eligible tenant families.

**PBVs – Project-Based Vouchers** provide rental assistance to families living in privately owned apartments, or in buildings controlled by the housing authority following a RAD-conversion. Using the voucher funding, MPHA enters into a contract to ensure that these units are preserved as affordable housing for up to 20 years (or beyond, in the case of RAD).

***RAD - Rental Assistance Demonstration*** was created to give public housing authorities (PHAs) a tool to preserve and improve public housing properties and address the nationwide backlog of deferred maintenance.

***Subsidy Standards*** are established by a PHA to determine the appropriate number of bedrooms and amount of subsidy for families based on the number of people and the family composition.

***SNAP - Supplemental Nutrition Assistance Program***, formerly known as Food Stamps, helps low income families to purchase nutritious food.

***TPVs – Tenant Protection Vouchers*** are issued to ensure there is no displacement of low-income residents as a result of underlying changes to subsidy assistance of a property. TPVs can also provide stability and facilitate an increased funding stream to the property.

***VASH - Veterans Affairs Supportive Housing*** This joint HUD-Veterans Affairs (VA) program combines Housing Choice Voucher (HCV) rental assistance for homeless Veterans with case management and clinical services provided by the Department of Veterans Affairs (VA).

***Very Low-Income Family*** – A low-income family whose annual income does not exceed 50% of the area median income for the area, as determined by HUD.

## **Appendix I – Rental Assistance Demonstration (RAD)**

### **Significant Amendment (Elliot Twins)**

*Following the HUD Sample Amendment in PIH Notice 2012-32 REV-3, Attachment 1D*

The Minneapolis Public Housing Authority (MPHA) is amending its Moving to Work (MTW) Annual Plan because it was a successful applicant in the Rental Assistance Demonstration (RAD). As a result, MPHA will be converting a portion of MN002000006, Cedar Asset Management Project, specifically 174 units at the Elliot highrises, to Project Based Vouchers under the guidelines of PIH Notice 2012-32, REV-3 and any successor Notices. Upon conversion to Project Based Vouchers the Authority will adopt the resident rights, participation, waiting list and grievance procedures listed in Section 1.6 of PIH Notice 2012-32, REV-3; and Joint Housing PIH Notice H-2016-17/PIH-2016-17. These resident rights, participation, waiting list and grievance procedures are appended to this Attachment. Additionally, MPHA certifies that it is currently compliant with all fair housing and civil rights requirements and is not under any administrative or judicial orders, decrees, rulings or decisions related to such requirements. MPHA certifies that the RAD conversion complies with all applicable site selection and neighborhood reviews standards and that all appropriate procedures have been followed.

Except as required by the RAD demonstration, there will be no changes in the policies that govern eligibility, admission, selection, and occupancy of units at Elliot highrises. Waiting list preferences will correspond to MPHA's current public housing highrise unit preferences:

*A highrise applicant head of household may qualify for one of the following preferences:*

- A. The Applicant is Elderly or at least 62 years old (40 points);*
- B. The Applicant is Near Elderly or between ages of 50 and 61 years old (35 points); or*
- C. The Applicant is disabled (30 points).*

*In addition, an applicant head-of-household may qualify for all of the following preferences:*

- A. The applicant head-of-household has been involuntarily displaced or is living in substandard housing or any member of the applicant's family is a VAWA victim who has been involuntarily displaced (5 points);*
- B. The applicant is actively participating in an Economic Self-Sufficiency Program (5 points); and*
- C. The applicant is a U.S. Veteran (5 points).*

RAD was designed by HUD to assist in addressing the capital needs of public housing by providing MPHA with access to private sources of capital to repair and preserve its affordable housing assets. Please be aware that upon conversion, the housing authority's Capital Fund Budget will be reduced by the share of Public Housing Developments converted as part of the Demonstration, and that MPHA may also borrow funds to address their capital needs. MPHA currently has debt under an Energy Performance Contract and will be working with Honeywell and Bank of America to address outstanding debt issues, which may result in additional reductions of Capital or Operating Funds. MPHA may contribute MTW funds to the conversion

under RAD. Regardless of any funding changes that may occur as a result of conversion under RAD, MPHA certifies that it will maintain its continued service level as required by its MTW Agreement with the U.S. Department of Housing and Urban Development. Up to 25% of the units may be redeveloped and replaced under the disposition rules of Section 18 of the U.S. Housing Act of 1937.

### **Further changes to MTW Annual Plan**

The following changes may be made during the RAD process without their inclusion in MTW Annual Plans:

- a. The decision to convert to either Project Based Rental Assistance or Project Based Voucher Assistance;
- b. Changes to the Capital Fund Budget produced as a result of each approved RAD Conversion, regardless of whether the proposed conversion will include use of additional Capital Funds;
- c. Changes to the construction and rehabilitation plan for each approved RAD conversion; and
- d. Changes to the financing structure for each approved RAD conversion.

**Project Specifics:** On the following page, please find specific information related to the Public Housing Development selected for RAD.



**MN002000006, Cedar AMP**

<u>Name of Public Housing Project:</u>	<u>PIC Development ID:</u>	<u>Conversion type (i.e., PBV or PBRA):</u>	<u>Transfer of Assistance:</u>
<b>Cedar / Elliot Highrises</b>	<b>MN002000006</b>	<b>PBV</b>	<b>No</b>
<u>Total Units:</u> <b>174</b>	<u>Pre- RAD Unit Type</u> (i.e., Family, Senior, etc.):  <b>General Occupancy (Elderly/Disabled preference)</b>	<u>Post-RAD Unit Type if different (i.e., Family, Senior, etc.)</u>  <b>UNCHANGED</b>	Capital Fund allocation of Development for 174 RAD units:  <b>\$433,247</b> (2019 Annual Capital Fund allocation / total number of public housing units in PHA x total number of units in project: \$14.825M / 5954 * 174)
Bedroom Type	Number of Units Pre-Conversion	Number of Units Post-Conversion	Change in Number of Units per Bedroom Type and Why
	<b>Total: 174</b>	<b>Total: 184*</b>	<b>+ 10 units</b>
Studio/Efficiency	<b>86</b>	<b>90*</b>	<b>+ 6</b> (new disability-accessible efficiency units added during renovation)*
One Bedroom	<b>88</b>	<b>94*</b>	<b>+ 4</b> (new disability-accessible one-bedroom units added during renovation)*
Two Bedroom			
Three Bedroom			
Four Bedroom			
Five Bedroom			
Six Bedroom			
<u>(If performing a Transfer of Assistance):</u>	N/A (No transfer of assistance)		

*\* Based upon preferred design at the adoption of this amendment; subject to change. However, no design scenario envisions a reduction from the current count of either type of unit.*

**Attached:**

- **MPHA Board Report (including summary of public comment) and Approved Resolution**
- **Sec. 1.6C. and 1.6.D. from Notice PIH 2012-32, REV-3**
- **PIH Notice H-2016-17/PIH-2016-17**

## **CERTIFICATE**

I, **Paula Sotelo**, Executive Assistant to the Executive Director and Board of Commissioners of the Minneapolis Public Housing Authority in and for the City of Minneapolis, do hereby certify that the attached **RESOLUTION** was duly adopted at a regular meeting of the Board of Commissioners of said Authority, held on September 25, 2019, and is a true and correct copy of the **RESOLUTION** adopted at said meeting and on file and of record in the official Minutes of said Authority.

**IN WITNESS WHEREOF**, I have hereunto set my hand and the seal of said Authority this 26th day of September 2019.

***I DO HEREBY CERTIFY THAT I AM DULY AUTHORIZED TO EXECUTE THIS CERTIFICATE.***



Paula A. Sotelo

**(SEAL)**



# APPROVED

September 25, 2019

Agenda Item 2

## REPORT TO THE COMMISSIONERS

**FROM:** Tracey Scott, Interim Executive Director/CEO

**SUBJECT:** Approval of the Rental Assistance Demonstration Amendment to MPHA's 2019 Moving to Work Annual Plan

**Previous Directives:** In August 2018 the MPHA Board of Commissioners approved MPHA's application for the HUD's Rental Assistance Demonstration (RAD) program at the Elliot Twins. MPHA's application was approved and MPHA was awarded a Commitment to enter a Housing Assistance Payments (CHAP) by HUD in December 2018.

**Resident Notification:** This amendment to the annual plan was duly and explicitly noticed to all residents, including residents of the Elliot Twins, by direct mail in July 2019. MPHA followed all resident notification and engagement requirements under the RAD program, in addition to regular engagement with the property's Resident Council and MPHA's Resident Advisory Board (RAB). The RAB received a copy of this amendment for review and discussion at its July meeting. The RAB will consider this amendment for approval at its regular meeting prior to the September 25 board meeting.

**Impact on Budget:** None

**Recommendation:** It is recommended that the Board of Commissioners adopt a resolution approving the Rental Assistance Demonstration Amendment to MPHA's 2019 MTW Annual Plan and submit it to HUD pursuant to the requirements in the MTW Agreement.

MPHA continues preparing for the conversion of federal housing subsidy and a subsequent major renovation at the Elliot Twins, facilitated by the Rental Assistance Demonstration (RAD) program administered by the U.S. Department of Housing and Urban Development (HUD).

Prior to submitting a RAD financing plan to HUD, HUD requires all PHAs to amend their annual plan to reflect the conversion. MPHA is amending our current and approved 2019 Moving to Work (MTW) Annual Plan. In our amendment, MPHA adheres closely to the template language

provided by HUD, filling in the details specific to this project. These correspond to the latest information about the project shared by MPHA staff with the board, including the projected addition of 10 units at the Elliot Twins (increasing the unit total from 174 to 184). The amendment text is unchanged from the draft received by the board in July.

MPHA made a draft of the amendment available for review on July 19. We received five spoken comments at the board's August 28 public hearing on the RAD amendment. MPHA received no written public comments through the advertised channels (mail and email) specifically devoted to the amendment. However, we did receive multiple comments related to RAD in the context of our 2020 MTW Annual Plan process and public information meetings, which occurred in the same window. Throughout the RAD application process to-date, MPHA has remained regularly engaged with and available to building residents, including the monthly resident council meetings, to answer questions and promote awareness of the RAD conversion.

A summary of comments and MPHA responses follows this board report, followed by the Board Resolution and a copy of the amendment. Please note that the final amendment to the plan will also include reproductions of two HUD notices, provided to the board in July.

*This report was prepared by Jeff Horwich, Director of Policy and External Affairs ([jhorwich@mplspha.org](mailto:jhorwich@mplspha.org)).*



***Summary of Public Comments***  
**Rental Assistance Demonstration (RAD) Amendment**  
**to the 2019 MTW Annual Plan**

**Comments from the Public Hearing (August 28, 2019)**

Five people spoke at the public hearing on the amendment.

1. A resident of the Elliot Twins stated that MPHA should recognize that many types of people live in the buildings, and to be prepared for that. She further stated her belief that MPHA intends to give the buildings to developers, make residents sign documents, and that the process is "disrespectful."
2. A resident from another public housing property praised the leadership and engagement of the resident council and the Minneapolis Highrise Representative Council during the RAD process. She stated that the RAD conversion is "working beautifully" at the Elliot Twins, but that she is upset by the disruptive misinformation and fear campaign, and that it needs to stop. She stated that information has been widely available, with regular meetings open to residents. She urged those at the hearing to become better informed and take advantage of opportunities to learn.
3. A resident from another public housing property stated that she is extremely disturbed by the "lack of housing" generally. She stated that she feels like she is being ripped off and abused, and she would like to see more accountability "in the housing system." She called for better communication, especially around what is going on with her building, and wants "to know who we can trust."
4. A resident from another public housing property stated that the RAD application has not been approved by residents, who have been silenced and abused. She stated that MPHA is lying and that there is an "eviction plan" that is pushing residents out. She stated that the Elliot Twins have already been remodeled, there is no need for RAD, and it is part of a plan to end public housing in Minneapolis. She accused MPHA staff of racism and violating laws.
5. A member of the general public stated that there has been extensive reporting on the shortfalls of RAD and how the program is being used as a "cash machine" for private interests. He stated that he rejects the idea that private investment is needed and we should "keep public housing public." He cited a report by the General Accounting Office finding that RAD has not leveraged as much private investment as expected. He also stated that he had questions about

MPHA's nonprofit, "Community Housing Resources," which is a nonprofit and "not wholly public." He stated his support for Elliot Twins residents fighting to protect their homes.

### **General Comments on RAD from the Concurrent 2020 MTW Annual Plan Process**

During the period for review of the 2019 RAD amendment, the draft of MPHA's 2020 MTW Annual Plan was also available for review and public comment. Comments related to RAD (including many identical form letters MPHA received) generally echoed the critical comments above. Many comments repeated incorrect information about the RAD conversion; for example, that residents will face eviction and rent increases, or will be required to use Section 8 vouchers or live with friends and family during the renovation. Comments also incorrectly stated that residents were not informed prior to MPHA's application. One commenter specifically asked MPHA to clarify what MPHA means when it says "most" households will not experience an increase in rent.

MPHA's draft plan also received formal comments from the Minneapolis Highrise Representative Council (MHRC). Within those comments, MHRC commends MPHA for early and ongoing involvement around RAD by resident leaders at a city and building level, from the drafting of MPHA's *Guiding Principles for Capital Investments* to the design and relocation subcommittees at the Elliot Twins that have been actively meeting throughout 2019.

### **MPHA Response**

MPHA continues outreach to residents of the Elliot Twins and the wider community on our intentions and commitments related to our RAD conversion, as well as the extensive resident protections required by federal law. MPHA's sole purpose—its only permissible purpose—in converting the Elliot Twins to project-based vouchers using RAD is to invest in a major building modernization to benefit the people who live there. We are gratified to enjoy an excellent, collaborative process with building residents that has yielded valuable design feedback and a draft of a strong, clear contract covering temporary relocation during construction.

MPHA has made detailed information on RAD available on its website, and much more is available directly from HUD. We will continue to counter plainly false information, including as reflected in public comment. Although MPHA will likely work with an investor using Low-Income Housing Tax Credits (LIHTC), this investor gains no power to evict or screen-out residents, raise rents above 30 percent of adjusted income, alter property management policies, or change the use of the building from its legally-binding, long-term purpose: to house extremely low-income people. Further, the LIHTC investor's involvement is temporary, leaving the picture after a 15-year compliance-period commitment.

The RAD program itself explicitly protects current residents from rescreening, grants a right-of-return to the property after any extensive work, and assures continued funding for resident organizations. The RAD process requires residents to be engaged and informed, and MPHA will

continue to meet our own high standards in this regard. It does not, notably, require resident approval; MPHA's board is the ultimate steward of our properties and our mission.

MPHA agrees with commenters who lament the federal government's failure to adequately fund major capital repairs to the nation's public housing. The ideal solution would certainly be for Congress to simply meet its obligations, and we press steadily in Washington to hold the line or even increase capital funding. We will continue to do so, and to make use of every dollar we receive. However, Congress funds capital at 10 percent of current need. Responsible housing authorities cannot stake our futures on ideals and wishes; the results would be a catastrophic loss of infrastructure and true displacement. We must use all the tools at our disposal today to preserve our housing for its intended purpose and remain true to our mission.

MPHA maintains that with MPHA's ownership of the underlying land, ongoing federal subsidy, a publicly appointed board, state and local funding interests, a not-for-profit social service mission, ongoing property management by MPHA, and multiple levels of public oversight and accountability, a RAD-converted property remains very much "public."

The language of the RAD amendment is prescribed by HUD. There are no appropriate alterations we might make in response to public comment. However, MPHA appreciates the specific invitation from one commenter to clarify references to "most" families with regard to assurances on rent increases. In shifting under RAD from Section 9 ("traditional" public housing) to Section 8 project-based vouchers, the fundamental income-based rent formula does not change: tenant rent is set at 30 percent of adjusted income. However, one rent-related concept under Section 9 does not follow the conversion: "flat rent," also known as "ceiling rent." Under flat rent regulations, tenants may choose to pay the flat rent set by the housing authority for their public housing unit. In practice, this means that households with the highest incomes may choose to pay the flat rent, as it is less than 30 percent of their income. Following RAD conversion to project-based vouchers, these households would revert to paying 30 percent of their income toward rent, constituting an increase in the household contribution to rent. However, two facts are salient: first, the RAD regulations allow housing authorities to phase in these rent increases over many years (for households where the increase is more than 10% or \$25 per month), and MPHA intends to adopt this phase-in approach. Second, the number of families fitting this profile is very small, among current Elliot Twins residents and public housing residents generally. Almost all families are extremely low-income, with incomes far below the level where flat rent becomes relevant. Thus, MPHA is confident in stating that most families will not experience a rent increase as a result of RAD conversion, where "most" means all but the small number of households who are currently paying less than 30 percent of their income toward rent.





September 25, 2019

Agenda Item 2

**RESOLUTION No. 19-191**

**WHEREAS**, the Minneapolis Public Housing Authority (MPHA) seeks to preserve and remodel one of its oldest highrise properties, the Elliot Twins (MN00200006-8A, MN002000006-8B); and

**WHEREAS**, the Rental Assistance Demonstration (RAD) program offers an opportunity to stabilize MPHA's federal subsidy to this property and work with new partners to fund the building improvements for the benefit of its low-income residents; and

**WHEREAS**, the MPHA Board of Commissioners approved MPHA's application for the RAD program in August 2018, followed by HUD's approval of that application in December 2018;

**WHEREAS**, HUD requires that housing authorities include planned RAD conversions as an amendment to their annual plan (or MTW Annual Plan, for Moving to Work agencies such as MPHA); and

**WHEREAS**, as an amendment to the MTW Annual Plan, MPHA has conducted a public hearing and considered comments from that hearing;

**NOW THEREFORE, BE IT RESOLVED** by the Board of Commissioners of MPHA that MPHA's 2019 MTW Annual Plan is hereby amended and that the Executive Director is authorized to submit it to HUD for approval as required in the MTW Agreement.

## Resident-Related Provisions from PIH Notice 2012-32, REV-3

**The following material is taken verbatim from Section 1.6 (Sections C and D) of PIH 2012-32 REV-3 and required for inclusion in this RAD Significant Amendment. Subject to applicable RAD requirements as stated in that material and otherwise, MPHA's Statement of Policies will govern the application of RAD to any affected properties and residents.**

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### **C. PBV Resident Rights and Participation.**

- 1. No Rescreening of Tenants upon Conversion.** Pursuant to the RAD Statute, at conversion, current households cannot be excluded from occupancy at the Covered Project based on any rescreening, income eligibility, or income targeting. With respect to occupancy in the Covered Project, current households in the Converting Project will be grandfathered for application of any eligibility criteria to conditions that occurred prior to conversion but will be subject to any ongoing eligibility requirements for actions that occur after conversion.<sup>1</sup> Post-conversion, the tenure of all residents of the Covered Project is protected pursuant to PBV requirements regarding continued occupancy unless explicitly modified in this Notice (e.g., rent phase-in provisions). For example, a unit with a household that was over-income at time of conversion would continue to be treated as an assisted unit. Thus, 24 CFR § 982.201, concerning eligibility and targeting of tenants for initial occupancy, will not apply for current households. Once the grandfathered household moves out, the unit must be leased to an eligible family. MTW agencies may not alter this requirement. Further, so as to facilitate the right to return to the assisted property, this provision shall apply to current public housing residents of the Converting Project that will reside in non-RAD PBV units or non-RAD PBRA units placed in a project that contain RAD PBV units or RAD PBRA units. Such families and such contract units will otherwise be subject to all requirements of the applicable program, specifically 24 CFR § 983 for non-RAD PBV units and the PBRA requirements governing the applicable contract for non-RAD PBRA units.<sup>2</sup>

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<sup>1</sup> These protections (as well as all protections in this Notice for current households) also apply when a household is relocated to facilitate new construction or repairs following conversion and subsequently returns to the Covered Project.

<sup>2</sup> For non-RAD PBV households, applicable program requirements includes the requirement that any admission to the project must be initially eligible for a HAP payment at admission to the program, which means their TTP may not exceed the gross rent for the unit at that time.

2. **Right to Return.** See section 1.4.A.5(ii) and the RAD Fair Housing, Civil Rights, and Relocation Notice regarding a resident's right to return.
3. **Renewal of Lease.** Since publication of the PIH Notice 2012-32 Rev 1, the regulations under 24 CFR part 983 have been amended requiring Project Owners to renew all leases upon lease expiration, unless cause exists. MTW agencies may not alter this requirement.
4. **Phase-in of Tenant Rent Increases.** If a tenant's monthly rent increases by more than the greater of 10 percent or \$25 purely as a result of conversion, the rent increase will be phased in over 3 or 5 years. To implement this provision, HUD is specifying alternative requirements for section 3(a)(1) of the Act, as well as 24 CFR § 983.3 (definition of "total tenant payment" (TTP)) to the extent necessary to allow for the phase-in of tenant rent increases. A PHA must create a policy setting the length of the phase-in period at three years, five years or a combination depending on circumstances. For example, a PHA may create a policy that uses a three year phase-in for smaller increases in rent and a five year phase-in for larger increases in rent. This policy must be in place at conversion and may not be modified after conversion.

The method described below explains the set percentage-based phase-in a Project Owner must follow according to the phase-in period established. For purposes of this section "Calculated PBV TTP" refers to the TTP calculated in accordance with regulations at 24 CFR §5.628 and the "most recently paid TTP" refers to the TTP recorded on line 9j of the family's most recent HUD Form 50058. If a family in a project converting from Public Housing to PBV was paying a flat rent immediately prior to conversion, the PHA should use the flat rent amount to calculate the phase-in amount for Year 1, as illustrated below.

#### Three Year Phase-in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 33% of difference between most recently paid TTP or flat rent and the Calculated PBV TTP
- Year 2: Year 2 Annual Recertification (AR) and any Interim Recertification (IR) prior to Year 3 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 3: Year 3 AR and all subsequent recertifications – Full Calculated PBV TTP<sup>3</sup>

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<sup>3</sup> For example, where a resident's most recently paid TTP is \$100, but the Calculated PBV TTP is \$200 and remains \$200 for the period of the resident's occupancy, (i.e. no changes in income) the resident would continue to pay the same rent and utilities for which it was responsible prior to conversion. At the first recertification following

Five Year Phase in:

- Year 1: Any recertification (interim or annual) performed prior to the second annual recertification after conversion – 20% of difference between most recently paid TTP or flat rent and the Calculated PBV TTP
- Year 2: Year 2 AR and any IR prior to Year 3 AR – 25% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 3: Year 3 AR and any IR prior to Year 4 AR – 33% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 4: Year 4 AR and any IR prior to Year 5 AR – 50% of difference between most recently paid TTP and the Calculated PBV TTP
- Year 5 AR and all subsequent recertifications – Full Calculated PBV TTP

*Please Note:* In either the three year phase-in or the five-year phase-in, once the Calculated PBV TTP is equal to or less than the previous TTP, the phase-in ends and tenants will pay full TTP from that point forward. MTW agencies must also implement a three or five-year phase-in for impacted residents, but may alter the terms above as long as it establishes a written policy setting forth the alternative terms.

- 5. Family Self Sufficiency (FSS) and Resident Opportunities and Self Sufficiency Service Coordinator (ROSS-SC) programs.** Public Housing residents that are currently FSS participants will continue to be eligible for FSS once their housing is converted under RAD. The PHA may continue to use any FSS funds already awarded to serve those FSS participants who live in units converted by RAD. At the completion of the FSS grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. If the PHA continues to run an FSS program that serves PH and/or HCV participants, the PHA will continue to be eligible (subject to NOFA requirements) to apply for FSS funding and may use that funding to serve PH, HCV and/or PBRA participants in its FSS program. Due to the program merger between PH FSS and HCV FSS that took place pursuant to the FY14 Appropriations Act (and was continued in the subsequent Appropriation Acts), no special provisions are required to continue serving FSS participants that live in public housing units converting to PBV under RAD.

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conversion, the resident's contribution would increase by 33% of \$100 to \$133. At the second AR, the resident's contribution would increase by 50% of the \$66 differential to the standard TPP, increasing to \$166. At the third AR, the resident's contribution would increase to \$200 and the resident would continue to pay the Calculated PBV TTP for the duration of their tenancy.

However, PHAs should note that there are certain FSS requirements (e.g., escrow calculation and escrow forfeitures) that apply differently depending on whether the FSS participant is a participant under the HCV program or a public housing resident, and PHAs must follow such requirements accordingly. All PHAs will be required to administer the FSS program in accordance with FSS regulations at 24 CFR part 984, the participants' contracts of participation, and the alternative requirements established in the "Waivers and Alternative Requirements for the FSS Program" Federal Register notice, published on December 29, 2014, at 79 FR 78100.<sup>4</sup> Further, upon conversion to PBV, already escrowed funds for FSS participants shall be transferred into the HCV escrow account and be considered TBRA funds, thus reverting to the HAP account if forfeited by the FSS participant.

For information on FSS PIC reporting requirements for RAD conversions, see Notice PIH 2016-08 at <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2016-08.pdf>.

Current ROSS-SC grantees will be able to finish out their current ROSS-SC grants once their housing is converted under RAD. However, once the property is converted, it will no longer be eligible to be counted towards the unit count for future ROSS-SC grants, nor will its residents be eligible to be served by future ROSS-SC grants, which, by statute, can only serve public housing residents. At the completion of the ROSS-SC grant, PHAs should follow the normal closeout procedures outlined in the grant agreement. Please note that ROSS-SC grantees may be a non-profit or local Resident Association and this consequence of a RAD conversion may impact those entities.

- 6. Resident Participation and Funding.** In accordance with Attachment 1B, residents of Covered Projects with assistance converted to PBV will have the right to establish and operate a resident organization for the purpose of addressing issues related to their living environment and be eligible for resident participation funding.
- 7. Resident Procedural Rights.** The following items must be incorporated into both the Section 8 Administrative Plan and the Project Owner's lease, which includes the

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<sup>4</sup> The funding streams for the PH FSS Program and the HCV FSS Program were first merged pursuant to the FY 2014 appropriations act. As a result, PHAs can serve both PH residents and HCV participants, including PBV participants, with FSS funding awarded under the FY 2014 FSS Notice of Funding Availability (FSS NOFA) and any other NOFA under which the combination of funds remains in the applicable appropriations act. For PHAs that had managed both programs separately and now have a merged program, a conversion to PBV should not impact their FSS participants.

required tenancy addendum, as appropriate. Evidence of such incorporation may be requested by HUD for purposes of monitoring the program.

- i. **Termination Notification.** HUD is incorporating additional termination notification requirements to comply with section 6 of the Act for public housing projects that convert assistance under RAD. In addition to the regulations at 24 CFR § 983.257 related to Project Owner termination of tenancy and eviction (which MTW agencies may not alter) the termination procedure for RAD conversions to PBV will require that PHAs provide adequate written notice of termination of the lease which shall be :
  - a. A reasonable period of time, but not to exceed 30 days:
    - i. If the health or safety of other tenants, Project Owner employees, or persons residing in the immediate vicinity of the premises is threatened; or
    - ii. In the event of any drug-related or violent criminal activity or any felony conviction;
  - b. Not less than 14 days in the case of nonpayment of rent; and
  - c. Not less than 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.
- ii. **Grievance Process.** Pursuant to requirements in the RAD Statute, HUD is establishing additional resident procedural rights to comply with section 6 of the Act.

For issues related to tenancy and termination of assistance, PBV program rules require the Project Owner to provide an opportunity for an informal hearing, as outlined in 24 CFR § 982.555. RAD will specify alternative requirements for 24 CFR § 982.555(b) in part, which outlines when informal hearings are not required, to require that:

- a. In addition to reasons that require an opportunity for an informal hearing given in 24 CFR § 982.555(a)(1)(i)-(vi),<sup>5</sup> an opportunity for an informal hearing must be given to residents for any dispute that a resident may have with respect to a Project Owner action in accordance with the individual's lease **or** the contract administrator in accordance with RAD PBV requirements that adversely affect the resident's rights, obligations, welfare, or status.
  - i. For any hearing required under 24 CFR § 982.555(a)(1)(i)-(vi), the contract administrator will perform the hearing, as is the current

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<sup>5</sup> § 982.555(a)(1)(iv) is not relevant to RAD as the tenant-based certificate program has been repealed.

standard in the program. The hearing officer must be selected in accordance with 24 CFR § 982.555(e)(4)(i).

- ii. For any additional hearings required under RAD, the Project Owner will perform the hearing.
- b. There is no right to an informal hearing for class grievances or to disputes between residents not involving the Project Owner or contract administrator.
- c. The Project Owner gives residents notice of their ability to request an informal hearing as outlined in 24 CFR § 982.555(c)(1) for informal hearings that will address circumstances that fall outside of the scope of 24 CFR § 982.555(a)(1)(i)-(vi).
- d. The Project Owner provides opportunity for an informal hearing before an eviction.

Current PBV program rules require that hearing procedures must be outlined in the PHA's Section 8 Administrative Plan.

1. **Earned Income Disregard (EID).** Tenants who are employed and are currently receiving the EID exclusion at the time of conversion will continue to receive the EID after conversion, in accordance with regulations at 24 CFR § 5.617. Upon the expiration of the EID for such families, the rent adjustment shall not be subject to rent phase-in, as described in Section 1.6.C.4; instead, the rent will automatically rise to the appropriate rent level based upon tenant income at that time.

Under the Housing Choice Voucher program, the EID exclusion is limited only to persons with disabilities (24 CFR § 5.617(b)). In order to allow all tenants (including non-disabled persons) who are employed and currently receiving the EID at the time of conversion to continue to benefit from this exclusion in the PBV project, the provision in 24 CFR § 5.617(b) limiting EID to disabled persons is waived. The waiver, and resulting alternative requirement, apply only to tenants receiving the EID at the time of conversion. No other tenant (e.g., tenants that move into the property following conversion or tenants who at one time received the EID but are not receiving the EID exclusion at the time of conversion due to loss of employment) is covered by this waiver.

2. **Jobs Plus.** Jobs Plus grantees awarded FY14 and future funds that convert the Jobs Plus target projects(s) under RAD will be able to finish out their Jobs Plus period of performance at that site unless significant relocation and/or change in building occupancy is planned. If either is planned at the Jobs Plus target project(s), HUD may



allow for a modification of the Jobs Plus work plan or may, at the Secretary's discretion, choose to end the Jobs Plus program at that project.

3. **When Total Tenant Payment Exceeds Gross Rent.** Under normal PBV rules, the PHA may select an occupied unit to be included under the PBV HAP Contract only if the unit's occupants are eligible for housing assistance payments (24 CFR § 983.53(c)). Also, a PHA must remove a unit from the contract when no assistance has been paid for 180 days because the family's TTP has risen to a level that is equal to or greater than the contract rent, plus any utility allowance, for the unit (i.e., the Gross Rent)) (24 CFR § 983.258). Since the rent limitation under this Section of the Notice may result in a family's TTP equaling or exceeding the gross rent for the unit, for residents living in the Converting Project prior to conversion and who will return to the Covered Project after conversion, HUD is waiving both of these provisions and requiring that the unit for such families be placed on and/or remain under the HAP Contract when TTP equals or exceeds the Gross Rent. Further, HUD is establishing the alternative requirement that until such time that the family's TTP falls below the gross rent, the rent to the owner for the unit will equal the lesser of (a) the family's TTP, less the Utility Allowance, or (b) any applicable maximum rent under LIHTC regulations. When the family's TTP falls below the gross rent, normal PBV rules shall apply. As necessary to implement this alternative provision, HUD is waiving the provisions of Section 8(o)(13)(H) of the Act and the implementing regulations at 24 CFR § 983.301 as modified by Section 1.6.B.5 of this Notice.<sup>6</sup> In such cases, the resident is considered a participant under the program and all of the family obligations and protections under RAD and PBV apply to the resident. Likewise, all requirements with respect to the unit, such as compliance with the HQS requirements, apply as long as the unit is under HAP Contract. The PHA is required to process these individuals through the Form 50058 submodule in PIC.

Following conversion, 24 CFR § 983.53(d) applies, and any new families referred to the RAD PBV project must be initially eligible for a HAP payment at admission to the program, which means their TTP may not exceed the gross rent for the unit at that time. Further, a PHA must remove a unit from the contract when no assistance has been paid for 180 days. If units are removed from the HAP contract because a new admission's TTP comes to equal or exceed the gross rent for the unit and if the project is fully assisted, HUD is imposing an alternative requirement that the PHA must reinstate the unit after the family has vacated the property. If the project is

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<sup>6</sup> For example, a public housing family residing in a property converting under RAD has a TTP of \$600. The property has an initial Contract Rent of \$500, with a \$50 Utility Allowance. Following conversion, the residents is still responsible for paying \$600 in tenant rent and utilities.

partially assisted, the PHA may substitute a different unit for the unit on the HAP contract in accordance with 24 CFR §983.207 or, where “floating” units have been permitted, Section 1.6.B.10 of this Notice.

4. **Under-Occupied Unit.** If a family is in an under-occupied unit under 24 CFR § 983.260 at the time of conversion, the family may remain in this unit until an appropriate-sized unit becomes available in the Covered Project. When an appropriate sized unit becomes available in the Covered Project, the family living in the under-occupied unit must move to the appropriate-sized unit within a reasonable period of time, as determined by the administering Voucher Agency. In order to allow the family to remain in the under-occupied unit until an appropriate-sized unit becomes available in the Covered Project, 24 CFR § 983.260 is waived. MTW agencies may not modify this requirement.

#### **D. PBV: Other Miscellaneous Provisions**

1. **Access to Records, Including Requests for Information Related to Evaluation of Demonstration.** PHAs and the Project Owner must cooperate with any reasonable HUD request for data to support program evaluation, including but not limited to project financial statements, operating data, Choice-Mobility utilization, and rehabilitation work. Please see Appendix IV for reporting units in Form HUD-50058.
2. **Additional Monitoring Requirement.** The Owner must submit to the administering PHA and the PHA’s Board must approve the operating budget for the Covered Project annually in accordance with HUD requirements.<sup>7</sup>
3. **Davis-Bacon Act and Section 3 of the Housing and Urban Development Act of 1968 (Section 3).** This section has been moved to 1.4.A.13 and 1.4.A.14.
4. **Establishment of Waiting List.** 24 CFR § 983.251 sets out PBV program requirements related to establishing and maintaining a voucher-wide, PBV program-wide, or site-based waiting list from which residents for the Covered Project will be admitted. These provisions will apply unless the project is covered by a remedial order or agreement that specifies the type of waiting list and other waiting list policies. The PHA shall consider the best means to transition applicants from the current public housing waiting list, including:

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<sup>7</sup> For PBV conversions that are not FHA-insured, a future HUD notice will describe project financial data that may be required to be submitted by a PBV owner for purposes of monitoring and evaluation, given that PBV projects do not submit annual financial statements to HUD/REAC.

- i. Transferring an existing site-based waiting list to a new site-based waiting list.
- ii. Transferring an existing site-based waiting list to a PBV program-wide or HCV program-wide waiting list.
- iii. Transferring an existing community-wide public housing waiting list to a PBV program-wide or HCV program-wide waiting list, an option particularly relevant for PHAs converting their entire portfolio under RAD.
- iv. Informing applicants on a community-wide public housing waiting list how to transfer their application to one or more newly created site-based waiting lists.

For any applicants on the public housing waiting list that are likely to be ineligible for admission to a Covered Project converting to PBV because the household's TTP is likely to exceed the RAD gross rent, the PHA shall consider transferring such household, consistent with program requirements for administration of waiting lists, to the PHA's remaining public housing waiting list(s) or to another voucher waiting list, in addition to transferring such household to the waiting list for the Covered Project.

To the extent any wait list relies on the date and time of application, the applicants shall have priority on the wait list(s) to which their application was transferred in accordance with the date and time of their application to the original waiting list.

If the PHA is transferring assistance to another neighborhood and, as a result of the transfer of the waiting list, the applicant would only be eligible for a unit in a location which is materially different from the location to which the applicant applied, the PHA must notify applicants on the wait-list of the transfer of assistance, and on how they can apply for residency at other sites.

If using a site-based waiting list, PHAs shall establish a waiting list in accordance with 24 CFR § 903.7(b)(2)(ii)-(iv) to ensure that applicants on the PHA's public housing community-wide waiting list have been offered placement on the Covered Project's initial waiting list. In all cases, PHAs have the discretion to determine the most appropriate means of informing applicants on the public housing community-wide waiting list given the number of applicants, PHA resources, and admissions requirements of the projects being converted under RAD. A PHA may consider contacting every applicant on the public housing waiting list via direct mailing; advertising the availability of housing to the population that is less likely to apply, both minority and non-minority groups, through various forms of media (e.g., radio stations, posters, newspapers) within the marketing area; informing local non-profit entities and advocacy groups (e.g., disability rights groups); and conducting other outreach as appropriate. Any activities to contact applicants on the public housing

waiting list must be conducted in accordance with the requirements for effective communication with persons with disabilities at 24 CFR § 8.6 and with the obligation to provide meaningful access for persons with limited English proficiency (LEP).<sup>8</sup>

A PHA must maintain any site-based waiting list in accordance with all applicable civil rights and fair housing laws and regulations.

To implement this provision, HUD is specifying alternative requirements for 24 CFR § 983.251(c)(2). However, after the initial waiting list has been established, the PHA shall administer its waiting list for the Covered Project in accordance with 24 CFR § 983.251(c).

- 5. Mandatory Insurance Coverage.** The Covered Project shall maintain at all times commercially available property and liability insurance to protect the project from financial loss and, to the extent insurance proceeds permit, promptly restore, reconstruct, and/or repair any damaged or destroyed project property.
- 6. Agreement Waiver.** This section has been moved to 1.6.B.8.
- 7. Future Refinancing.** Project Owners must receive HUD approval for any refinancing or restructuring of secured debt during the HAP Contract term to ensure the financing is consistent with long-term preservation of the Covered Project. With respect to any financing contemplated at the time of conversion (including any permanent financing which is a conversion or take-out of construction financing), such consent may be evidenced through the RCC.
- 8. Administrative Fees for Public Housing Conversions During the Year of Conversion.** For the remainder of the Calendar Year in which the HAP Contract becomes effective (i.e., the “year of conversion”), RAD PBV projects will be funded with public housing funds. For example, if the project’s assistance converts effective July 1, 2015, the public housing ACC between the PHA and HUD will be amended to reflect the number of units under HAP Contract, but will be for zero dollars, and the RAD PBV HAP Contract will be funded with public housing money for July through December 2015. Since TBRA is not the source of funds, PHAs should not report leasing and expenses into VMS during this period, and PHAs will not receive section 8 administrative fee funding for converted units during this time.

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<sup>8</sup> For more information on serving persons with LEP, please see HUD’s Final guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732), published on January 22, 2007.

PHAs operating HCV program typically receive administrative fees for units under a HAP Contract, consistent with recent appropriation act references to “section 8(q) of the [United States Housing Act of 1937] and related appropriations act provisions in effect immediately before the Quality Housing and Work Responsibility Act of 1998” and 24 CFR § 982.152(b). During the year of conversion mentioned in the preceding paragraph, these provisions are waived. PHAs will not receive Section 8 administrative fees for PBV RAD units during the year of conversion.

After the year of conversion, the Section 8 ACC will be amended to include Section 8 funding that corresponds to the units covered by the Section 8 ACC. At that time, the regular Section 8 administrative fee funding provisions will apply.

9. **Choice-Mobility.** One of the key features of the PBV program is the mobility component, which provides that if the family has elected to terminate the assisted lease at any time after the first year of occupancy in accordance with program requirements, the PHA must offer the family the opportunity for continued tenant-based rental assistance, in the form of either assistance under the voucher program or other comparable tenant-based rental assistance.

If as a result of participation in RAD a significant percentage of the PHA’s HCV program becomes PBV assistance, it is possible for most or all of a PHA’s turnover vouchers to be used to assist those RAD PBV families who wish to exercise mobility. While HUD is committed to ensuring mobility remains a cornerstone of RAD policy, HUD recognizes that it remains important for the PHA to still be able to use tenant-based vouchers to address the specific housing needs and priorities of the community. Therefore, HUD is establishing an alternative requirement for PHAs where, as a result of RAD, the total number of PBV units (including RAD PBV units) under HAP Contract administered by the PHA exceeds 20 percent of the PHA’s authorized units under its HCV ACC with HUD.

The alternative mobility policy provides that an eligible voucher agency would not be required to provide more than three-quarters of its turnover vouchers in any single year to the residents of Covered Projects. While a voucher agency is not required to establish a voucher inventory turnover cap, if such a cap is implemented, the voucher agency must create and maintain a waiting list in the order in which the requests from eligible households were received. In order to adopt this provision, this alternative mobility policy must be included in an eligible PHA’s administrative plan.

To effectuate this provision, HUD is providing an alternative requirement to Section 8(o)(13)(E) of the Act and 24 CFR § 983.261(c). Please note that this alternative requirement does not apply to PBVs entered into outside of the context of RAD. MTW agencies may not alter this requirement.

**Reserve for Replacement.** The Project Owner shall establish and maintain a replacement reserve in an interest-bearing account to aid in funding extraordinary maintenance and repair and replacement of capital items in accordance with applicable regulations. The reserve must be built up to and maintained at a level determined by HUD to be sufficient to meet projected requirements. For FHA transactions, Replacement Reserves shall be maintained in accordance with the FHA Regulatory Agreement. For all other transactions, Replacement Reserves shall be maintained in a bank account or similar instrument, as approved by HUD, where funds will be held by the Project Owner or mortgagee and may be drawn from the reserve account and used subject to HUD guidelines.



**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**  
**Office of Public and Indian Housing**  
**Office of Housing**

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<b>Special Attention of:</b>	<b>Notice</b>	H 2016-17 PIH 2016-17 (HA)
Public Housing Agencies		
Public Housing Hub Office Directors		
Public Housing Program Center Directors	<b>Issued:</b>	November 10, 2016
Multifamily HUB Directors		
Multifamily Program Center Directors	<b>Effective:</b>	November 10, 2016
Regional and Field Office Directors		
Regional Administrators	<b>Expires:</b>	This Notice remains in effect until amended, superseded, or rescinded
Performance Based Contract Administrators		
RAD Transaction Managers	<b>Supplements:</b>	PIH Notice 2012-32 (HA) REV-2
Regional Relocation Specialists		
	<b>Supersedes:</b>	H 2014-09/PIH 2014-17

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**SUBJECT:** Rental Assistance Demonstration (RAD) Notice Regarding Fair Housing and Civil Rights Requirements and Relocation Requirements Applicable to RAD First Component – Public Housing Conversions.<sup>1</sup>

## **SECTION 1. Purpose, Applicability and Major Provisions of this Notice**

### **1.1. Purpose**

This notice (Notice) provides PHAs,<sup>2</sup> Project Owners, and their RAD development partners with guidance regarding key fair housing and civil rights statutory and regulatory requirements, explains the situations in which HUD is requiring front-end fair housing and civil rights reviews, and provides information regarding the types of information that must be submitted to facilitate HUD’s review of certain fair housing and civil rights requirements in connection with public housing conversions under the First Component of RAD. This Notice also includes guidance

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<sup>1</sup> While this Notice addresses fair housing and civil rights requirements and relocation requirements, the fair housing and civil rights requirements are not limited to relocation issues.

<sup>2</sup> Consistent with PIH Notice 2012-32 (HA) REV-2 (PIH 2012-32 (HA) REV-2) (the “RAD Notice”), this Notice uses the term “PHA” to refer to the owner of the project prior to the RAD conversion and “Project Owner” to refer to the owner of the project after the RAD conversion.



regarding key relocation statutory and regulatory requirements, and details relocation requirements under RAD. This Notice only applies to projects converting under the First Component of RAD; it does not apply to the Second Component of RAD.<sup>3</sup>

The RAD program was established as a tool for preserving and improving low-income housing stock. RAD is intended to facilitate reinvestment in or redevelopment of the long-term-affordable stock of HUD-assisted housing properties. RAD also provides mobility benefits for assisted residents of converted properties through the choice mobility option, allowing these households to access tenant-based Housing Choice Vouchers. In some cases, RAD can be a tool for transfer of rental assistance from distressed or poorly selected sites to new sites in high opportunity areas. In all cases, the objective is to better serve low-income residents and the broader community in complying with fair housing, other civil rights, and relocation laws.

This Notice provides PHAs and Project Owners with guidance relating to planning and implementing public housing (First Component) RAD conversions in a manner consistent with existing fair housing and other civil rights requirements, including, but not limited to, those associated with the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Executive Order 11063, Section 504 of the Rehabilitation Act of 1973, Titles II and III of the Americans with Disabilities Act, the Architectural Barriers Act of 1968, and their implementing regulations. Section 4 of this Notice summarizes key provisions of existing law applicable to RAD transactions.

To further compliance with these existing requirements, PIH 2012-32 (HA) REV-2, issued June 15, 2015 (the “RAD Notice”) established that specific PHA decisions and activities planned to be part of a First Component RAD conversion must be reviewed by HUD prior to implementation (the “front-end” fair housing and civil rights reviews). Through a front-end review of the enumerated PHA decisions, HUD seeks to assist PHAs and Project Owners in meeting their fair housing, other civil rights, and relocation obligations. Section 5 of this Notice explains the situations in which HUD is requiring front-end fair housing, other civil rights, and relocation reviews, details the procedures for HUD’s front-end review and the type of information that must be submitted for these reviews, and the timeframes for these reviews.

Finally, in Sections 6 and 7 this Notice provides PHAs and Project Owners with guidance regarding RAD program and other statutory and regulatory relocation assistance requirements when planning for or implementing resident moves as a result of a conversion of a public housing project under RAD. This guidance includes reiterated and new requirements, the corresponding required reviews, and explanation of the interaction between RAD relocation procedures and certain existing public housing requirements. PHAs and Project Owners implementing RAD transactions may be subject to (a) the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA),

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<sup>3</sup> Important fair housing, other civil rights, and relocation considerations apply also to the Second Component of RAD as provided in the RAD Notice. Participants in the Second Component of RAD must continue to comply with applicable fair housing, civil rights, and relocation statutes and regulations, and HUD may, at any time, initiate compliance or enforcement actions in connection with such requirements. The RAD Notice will continue as the primary source of information on fair housing and other civil rights requirements covering the Second Component of RAD without any change until further notice.

(b) the requirements of Section 104(d) of the Housing and Community Development Act of 1974 (Section 104(d)) if CDBG or HOME funds are included as part of the project, (c) fair housing and other civil rights considerations implicated by relocation activities, and (d) requirements for relocating residents under the RAD Notice.

## **1.2. PHA and Project Owner Responsibilities**

This Notice explains RAD's front-end fair housing and other civil rights review requirements in greater detail than was provided in the RAD Notice and this Notice restates and revises RAD's relocation requirements. However, the fair housing, other civil rights, and relocation requirements that apply to RAD conversions are neither limited to those discussed in this Notice, nor to those specifically reviewed by HUD in the front-end review.

### **MEETING HUD'S PROCESS AND REVIEW REQUIREMENTS NEVER CONSTITUTES COMPLIANCE WITH SUCH LAWS. THE OBLIGATION TO COMPLY WITH APPLICABLE FAIR HOUSING, OTHER CIVIL RIGHTS, AND RELOCATION LAWS REMAINS WITH THE PHA AND PROJECT OWNER.**

The fair housing and civil rights requirements that apply to RAD conversions are not limited to those discussed in this Notice. PHAs and Project Owners are responsible at all times for ensuring that their RAD activities (including those activities implemented by their agents, consultants, contractors, or other RAD team members) comply with all applicable fair housing and civil rights requirements. PHAs and Project Owners shall be accountable for all fair housing and civil rights compliance issues with respect to their RAD activities, whether those activities are undertaken directly or through agents, consultants, contractors, or other RAD team members. While HUD provides this non-exhaustive guidance to assist PHAs and Project Owners during transactions, complying with the requirements set forth in this Notice does not necessarily mean that they, or their agents or consultants, are in compliance with fair housing and civil rights requirements.<sup>4</sup>

This Notice is not intended to, and shall not be construed to, reduce or in any way limit the application of fair housing, other civil rights, and relocation laws and regulations to RAD transactions. For example, HUD's reliance on a PHA's certification that a site meets the site and neighborhood standards required by the RAD Notice is not a determination of compliance with the duty to affirmatively further fair housing or other fair housing and civil rights requirements. As another example, HUD's approval of a site for new construction does not, by itself, constitute a determination of the PHA's compliance with all provisions of Title VI and its duty to affirmatively further fair housing found in the Fair Housing Act and other fair housing and civil rights requirements, nor indicate HUD's approval of the PHA's or locality's overall housing strategy. HUD's approval of a RAD conversion after front-end review reflects only that the project may proceed through the RAD conversion process; it does not constitute a determination

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<sup>4</sup> The PHA's or Project Owner's agents, consultants, contractors, and other RAD team members may also have fair housing and other civil rights obligations (whether under this Notice or otherwise) and the forgoing does not, in any way, limit the independent obligation of any such parties to ensure their own compliance with applicable fair housing and other civil rights laws.

that the project is in compliance with applicable fair housing, civil rights, and relocation requirements.

HUD's approval of a front-end review submission is based on limited information and is intended to assist the PHA or Project Owner in meeting their fair housing, civil rights, and relocation obligations.<sup>5</sup> The PHA is responsible for ensuring that its RAD conversion is consistent with its certification to affirmatively further fair housing and complies with applicable civil rights laws.<sup>6</sup> The front-end reviews described in this Notice shall not be construed to limit other fair housing and civil rights investigations that HUD may conduct. HUD retains all compliance and enforcement authority.

HUD's determination that the PHA or Project Owner has failed to meet submission, certification, or approval requirements with respect to fair housing, other civil rights, or relocation requirements is grounds for terminating a Commitment to enter into a Housing Assistance Payments Contract (CHAP), denying the issuance of a RAD Conversion Commitment (RCC), or denying authority to convert under RAD.

### **1.3. Applicability**

The content of this Notice should not be relied upon in carrying out any other activities funded under any other HUD program, except where specifically directed by HUD.

This Notice supplements the RAD Notice with respect to fair housing and civil rights requirements applicable to public housing properties converting under RAD and with respect to all matters related to the relocation of residents as a result of RAD public housing conversions. To the extent that there is a conflict between this Notice and the RAD Notice, this Notice shall govern. This Notice replaces and supersedes Notice H 2014-09/PIH 2014-17 (issued July 14, 2014).

Upon issuance, the terms of this Notice will apply to all projects that have applied for conversion of assistance under the First Component of RAD but have not yet converted. As this Notice provides guidance, clarification, and explanation regarding fair housing and civil rights requirements that are already applicable to RAD conversions, this Notice shall not affect any front-end civil rights approvals provided by HUD prior to the effective date of this Notice and otherwise shall be effective with respect to front-end civil rights approvals without exception. However, with respect to relocation activities for Converting Projects under the First Component where a PHA has already submitted a Financing Plan pursuant to the RAD Notice at the time of issuance of this Notice, and provided that the Financing Plan has been accepted for full review after initial screening for completeness, the PHA may, within sixty (60) days after issuance of this Notice, request (in writing uploaded to the RAD Resource Desk) to be governed by H 2014-

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<sup>5</sup> For example, the front-end review is specific to an individual site. A PHA that does not promote fair housing choice outside areas of minority concentration and continues to site affordable housing in minority concentrated areas may be in noncompliance with the duty to affirmatively further fair housing and other fair housing and civil rights obligations, even if the specific site is approved based on the information provided and pursuant to the front-end review of the PHA's site and neighborhood standards submission.

<sup>6</sup> See 24 C.F.R. § 5.105 and, as applicable, 24 C.F.R. § 983.57(b)(2) or Appendix III of the RAD Notice.

09/PIH 2014-17. For such projects and where otherwise appropriate in cases of hardship as determined by HUD, HUD may apply the terms of H 2014-09/PIH 2014-17 with respect to relocation activities, but not with respect to fair housing and civil rights requirements.

RAD projects which have been awarded Choice Neighborhoods Implementation (CNI) grants are subject to the provisions of the applicable Choice Neighborhoods Notice of Funding Availability (NOFA) and grant agreement regarding site and neighborhood standards and are not subject to the RAD front-end civil rights transaction reviews described in this Notice. For properties being redeveloped with funding under a CNI grant, the relocation requirements set forth in this Notice are superseded by guidance regarding relocation included in the CNI NOFA. Permanent involuntary displacement of public housing or Section 8 assisted residents may not occur as a result of a Choice Neighborhood project's conversion of assistance.

#### **1.4. Explanation of Major Provisions**

This Notice adds to and revises pre-existing guidance related to fair housing, civil rights, and relocation (as contained in the RAD Notice and H 2014-09/PIH 2014-17) with respect to RAD transactions. Among the key provisions and changes are the following:

##### Fair Housing & Civil Rights

- Reaffirms the applicability of fair housing and civil rights requirements to all RAD-related activities (see, e.g., Section 3.3 and Section 4);
- Reiterates when HUD front-end civil rights review (originally outlined in the RAD Notice) is required in addition to the PHA's analysis and certification of compliance, to assist the PHA and Project Owner to comply with fair housing and civil rights requirements (see Section 5.3);
- Outlines certain conditions under which HUD will conduct a front-end review to determine whether the site is in an area of minority concentration relative to the site's housing market area (see Section 5.4(A));
- Provides guidance, for purposes of the RAD front-end civil rights review, on the concepts of "area of minority concentration" and "housing market area" that are reviewed when determining whether a site is in an area of minority concentration (see Section 5.4(B));
- Elaborates on specific information that HUD will consider, and that PHAs should provide evidence of, in order for a proposed site to meet the existing exceptions to permit new construction in an area of minority concentration, identifies presumptions for meeting the sufficient comparable opportunities exception and describes factors that HUD may consider in evaluating the overriding housing needs exception (see Section 5.4(C) and Section 5.4(D));
- Articulates issues that HUD will consider in completing the front-end civil rights review for transfers of assistance, including, for example, accessibility and minority concentration (see Section 5.5);
- Outlines the information to be submitted for HUD's front-end civil rights review of transactions where unit reductions, unit reconfigurations, or changes in occupancy are proposed (see Section 5.6);
- Identifies the situations where front-end civil rights reviews are required when changes in the accessibility features of a site are made (see Section 5.7(B)); and

- Prohibits the Project Owner of a Converted Project with a PBRA HAP contract from initiating any new leasing or marketing activities (other than leasing and outreach to households holding a right to return to the Covered Project), including the solicitation, distribution or acceptance of applications or development of a waiting list, until HUD has approved the Affirmative Fair Housing Marketing Plan (“AFHMP”) (see Section 5.8).

### Relocation

- Requires PHAs or Project Owners to prepare a written relocation plan for all transactions that involve permanent relocation or temporary relocation anticipated to exceed 12 months (see Section 6.1);
- Requires PHAs to provide residents with a RAD Information Notice (RIN) in order to ensure that residents are informed of potential project plans and of their rights in connection with RAD prior to submission of the RAD application (see Section 6.6(A));
- Clarifies that the General Information Notice (GIN), when applicable, should be provided as soon as feasible and no later than 30 days following the issuance of the CHAP (see Section 6.6(B));
- Requires Project Owners to provide a notification of Return to the Covered Project, when applicable (see Section 6.6(F));
- Moves the date before which PHAs are prohibited from beginning any physical relocation earlier in the conversion process (specifically, from the date of Closing to the later of the effective date of the RCC and the expiration of the 30- or 90-day RAD Notice of Relocation period, as applicable) (see Section 6.8);
- Clarifies the specific requirements applicable to different types of relocation (e.g., moves within a property, temporary relocation of less than 12 months, etc.) (see, e.g., Section 6.4);
- Provides enhanced guidance on the right to return requirements, any offers of alternative housing options and the documentation that must be retained when tenants choose an alternative housing option and decline their right to return (see, e.g., Section 6.2 and Section 6.10);
- Describes how HUD has administratively implemented URA requirements and URA relocation assistance and payments for displaced persons, when applicable, to residents who choose to decline the right of return and, instead, choose voluntary permanent relocation (see, e.g., Section 6.4(C) through (F) and Section 6.10);
- Requires PHAs to maintain detailed data regarding each household that will be relocated, with key dates of notices and moves (see Section 6.9); and
- Identifies key fair housing and civil rights requirements applicable during relocation (see, e.g., Section 4).

## **1.5. Request for Public Comment**

HUD acknowledges the complexity of the issues addressed in this Notice. This Notice is effective immediately upon issuance, but HUD also seeks comment from the public regarding the clarity and organization of the Notice and regarding areas where the policies and procedures described are unclear or ambiguous. HUD will consider whether changes in response to comments are justified and will implement any appropriate changes in a revision of this Notice. Please submit all comments to [RAD@hud.gov](mailto:RAD@hud.gov) within 30 days of the issuance of this Notice.

**1.6. Paperwork Reduction Act**

In accordance with the Paperwork Reduction Act (PRA), HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number. OMB approved information collection forms will be posted on the RAD website and the Federal Register.

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Appendix I – Applicable Legal Authorities

Appendix II – Recommended Relocation Plan Contents

## **SECTION 3. Background**

### **3.1. RAD Authority**

RAD is authorized by the Consolidated and Further Continuing Appropriations Act of 2012 (Pub. L. No. 112-55, enacted November 18, 2011), as amended by the Consolidated Appropriations Act, 2014 (Public Law 113-76, enacted January 17, 2014), the Consolidated and Further Continuing Appropriations Act, 2015 (Public Law 113-235, enacted December 6, 2014), and the Division L, Title II, Section 237 of the Consolidated Appropriations Act (Public Law 114-113, enacted December 18, 2016), collectively and as it may be further amended from time to time, the “RAD Statute.” RAD allows certain eligible properties to convert assistance to long-term project-based Section 8 contracts and has two separate components. The First Component allows projects funded under the public housing program to convert their assistance to long-term, project-based Section 8 rental assistance contracts. Under this component of RAD, public housing agencies (PHAs) may choose between two different Section 8 housing assistance programs: project based vouchers (PBVs) or project-based rental assistance (PBRA). The “Second Component” of RAD allows owners of projects funded under the Rent Supplement (Rent Supp), Rental Assistance Payment (RAP), and Moderate Rehabilitation programs to convert certain units to PBV or PBRA Section 8 units following certain contract expirations or terminations. The RAD Statute is implemented by the RAD Notice.

### **3.2. Definitions**

All capitalized terms defined in the RAD Notice, as amended, shall have the definitions ascribed to them therein unless otherwise specifically noted in this Notice.<sup>7</sup> Pre-conversion projects whose assistance is converting from public housing to Section 8 under RAD are referred to in the RAD Notice and in this Notice as “Converting Projects.” Post-conversion projects are referred to in the RAD Notice and this Notice as “Covered Projects.”

### **3.3. Applicable Legal Authorities**

Appendix I to this Notice identifies key legal authorities with respect to fair housing, civil rights, and resident relocation. Part 2 of Appendix I provides greater detail regarding federal accessibility requirements set forth in three of the legal authorities described in Appendix I,

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<sup>7</sup> Many of the fair housing and civil rights concepts used throughout this Notice are terms of art that are defined in applicable statutes and regulations identified in Appendix I of this Notice, while others have been developed through judicial interpretation. PHAs and Project Owners should familiarize themselves with these terms of art and should consult 42 U.S.C. § 3602 (Fair Housing Act); 24 C.F.R. §§ 5.152-100.20 (Fair Housing Act); 42 U.S.C. §§ 2000d-2000d-4a (Title VI of the Civil Rights Act of 1964); 24 C.F.R. § 1.2 (Title VI); 29 U.S.C. § 705 (Rehabilitation Act); 24 C.F.R. § 8.3 (Section 504); 42 U.S.C. §§ 12102, 12132, 12181 (Americans with Disabilities Act (ADA)); 28 C.F.R. § 35.104 (Title II of the ADA); and 28 C.F.R. § 36.104 (Title III of the ADA). In addition, many of the relocation concepts are terms of art that are defined in 42 U.S.C. § 4601 *et seq.* (Uniform Relocation Act (URA)), Section 104(d) of the Housing and Community Development Act of 1974 codified at 42 U.S.C. § 5304(d), and their implementing regulations at 49 C.F.R Part 24 and 24 C.F.R. Part 42 subpart C.

Part 1. PHAs and Project Owners must be familiar with these legal authorities and must evaluate, based on the facts of their situation, which legal authorities are applicable in which situations. **Failure to comply with any legal authority as applicable to the PHA's or Project Owner's actions or inactions may result in liability under such authority.** Appendix I does not attempt to provide a complete and exhaustive explanation of the legal authorities, nor to fully inventory the situations in which each legal authority is applicable. Instead, Appendix I is an overview intended to serve as a general introduction or reminder for PHAs and Project Owners of these fair housing, other civil rights, and relocation authorities and to facilitate their identification of appropriate topics for further research or expert counsel. The recitation of these legal authorities neither expands nor diminishes their applicability to the PHA's and Project Owner's activities in connection with their RAD conversion.

The RAD Statute authorizes the Secretary of HUD to waive or specify alternative requirements for certain provisions of law, except for requirements related to, among others, fair housing and nondiscrimination.<sup>8</sup> In addition to the general application of various federal statutes and their implementing regulations as discussed in Appendix I, below, HUD regulations at 24 C.F.R. § 5.105 apply such authorities to all HUD programs, including RAD.

### **3.4. Further Information**

Because each RAD proposal varies in its scope, this Notice may not address each PHA's or Project Owner's specific circumstances. PHAs and Project Owners should carefully review the laws, regulations, notices, and guidance material referenced in this Notice. Any questions related to the administration of the RAD program should be referred to the appropriate RAD Transaction Manager (TM) or may be emailed to [rad@hud.gov](mailto:rad@hud.gov).

## **SECTION 4. Generally Applicable Fair Housing and Civil Rights Requirements Relevant Throughout the RAD Conversion Process**

This Section provides a summary overview of key principles regarding program implementation and an overview of generally applicable fair housing and civil rights requirements. Appendix I identifies the key legal authorities from which these principles are derived. These key principals, together and with the legal authorities identified in Appendix I, frame the PHA's efforts to implement a RAD conversion. In some cases, these requirements are particularly relevant to the process of planning the RAD conversion, while in others they have particular relevance for the structure of the RAD transaction itself, and in yet other cases, both. Elements of RAD transactions that have civil rights implications include, but are not limited to, transfers of assistance, temporary and permanent relocation, demolition, site selection, new construction, occupancy policies, changes in unit configuration, increases or reductions in units, waiting list administration policies, policies regarding return of temporarily relocated tenants, substantial rehabilitation or alteration, program accessibility, tenant selection policies and priority transfers, providing information to and communicating with persons with Limited English Proficiency (LEP) and persons with disabilities, reasonable accommodation policies, and Affirmative Fair

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<sup>8</sup> See Pub. L. No. 112-55, as amended.

Housing Marketing Plans (AFHMPs). All PHAs must consider civil rights when structuring these and other elements of their RAD transaction.

RAD transactions are governed by the same civil rights authorities that govern HUD-assisted activities generally.<sup>9</sup> Converting Projects are subject to civil rights and equal opportunity requirements under the public housing regulations, and Covered Projects are subject to civil rights and equal opportunity requirements under the PBV regulations or the PBRA regulations, as applicable.<sup>10</sup> As described further below, the Fair Housing Act prohibits discrimination in housing<sup>11</sup> and requires all federal executive departments and agencies to “administer their programs and activities relating to housing and urban development ... in a manner affirmatively to further” fair housing.<sup>12</sup> In addition, all programs or activities receiving Federal financial assistance are subject to Title VI of the Civil Rights Act of 1964 forbidding discrimination on the basis of race, color, and national origin<sup>13</sup> and Section 504 of the Rehabilitation Act of 1973, which forbids discrimination on the basis of disability and requires that programs or activities receiving Federal financial assistance make such programs or activities “when viewed in its entirety” readily accessible to persons with disabilities and make reasonable accommodation to the needs of persons with disabilities.<sup>14</sup> RAD transactions are also subject, as applicable, to the requirements of Titles II and III of the Americans with Disabilities Act, Executive Order 11063, and HUD regulations at 24 C.F.R. part 107. Thus, as with the administration of all HUD programs and all HUD-assisted activities, fair housing and civil rights issues must be considered in the administration of the RAD program. PHAs must not implement actions and policies that may have a discriminatory effect on the basis of race, color, sex, national origin, religion, disability, or familial status or that may impede, obstruct, prevent, or undermine efforts to affirmatively further fair housing.<sup>15</sup> Note, in particular, the following requirements:

- **Affirmatively Furthering Fair Housing (AFFH):** The Fair Housing Act requires that HUD administer its programs and activities in a manner that affirmatively furthers the purposes of the Fair Housing Act. The Fair Housing Act not only prohibits discrimination but, in conjunction with other statutes, directs HUD’s recipients, including PHAs, to take significant actions to overcome historic patterns of segregation, achieve truly balanced and integrated living patterns, promote fair housing choice, and foster inclusive communities that are free from discrimination. Through various statutes, regulations, and executive orders, PHAs must take various actions in accordance and in conjunction with their Fair Housing Act obligation to affirmatively further fair housing. For example, under regulations implementing the United States Housing Act of 1937 (the Act), HUD recipients must, among other requirements, certify that they will affirmatively further fair housing. In addition, under HUD’s Affirmatively Furthering Fair Housing (AFFH) rule promulgated July 16, 2015, PHAs must periodically conduct an Assessment

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<sup>9</sup> See 24 C.F.R. § 5.105.

<sup>10</sup> See, e.g., 24 C.F.R. §§ 880.601, 881.601 and 983.8 for civil rights related regulations applicable to PBV and PBRA transactions.

<sup>11</sup> See 42 U.S.C. §§ 3601 *et seq.*, and HUD regulations in 24 C.F.R. part 100

<sup>12</sup> 42 U.S.C. § 3608(d) and (e).

<sup>13</sup> See 42 U.S.C. §§ 2000d *et seq.*, and HUD regulations in 24 C.F.R. part 1.

<sup>14</sup> See 29 U.S.C. §§ 701 *et seq.*, and HUD regulations in 24 C.F.R. part 8.

<sup>15</sup> See 24 C.F.R. part 1 and part 100 subpart G.

of Fair Housing (AFH) as set out by the rule, either individually or in collaboration with other program participants.<sup>16</sup> Under the AFFH rule, in order to develop a successful affirmatively furthering fair housing strategy, the PHA must assess the elements and factors that cause, increase, contribute to, maintain, or perpetuate segregation, racially or ethnically concentrated areas of poverty, significant disparities in access to opportunity, and disproportionate housing needs. PHAs must ensure that their activities in connection with a RAD conversion are consistent with their AFH, including any applicable joint or regional AFH in which they are a joint participant, and with any applicable Analysis of Impediments to Fair Housing Choice (AI), Fair Housing Equity Assessment, PHA 5-Year Plan, PHA Annual Plan, Moving to Work (MTW) Plan, or related planning documents and other regulatory and programmatic requirements implementing the obligation to affirmatively further fair housing to which they are a party.<sup>17</sup>

- Nondiscriminatory Site Selection:** HUD’s site and neighborhood standards require that the proposed site is suitable from the standpoint of facilitating and furthering full compliance with the applicable provision of Title VI of the Civil Rights Act, the Fair Housing Act, Executive Order 11063, and Department regulations implementing these authorities. The site must meet the Section 504 site selection requirements in 24 C.F.R. § 8.4(b)(5). Additional provisions appear in 24 C.F.R. § 983.57(b) of the PBV rules and, for PBRA, in Appendix III of the RAD Notice. HUD’s Title VI regulation specifically prohibits site selection that has the “purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination” on the basis of race, color, or national origin.<sup>18</sup> The Title VI regulations also impose an obligation on the part of an applicant or recipient of HUD financial assistance to take actions to overcome the effect of prior discrimination or conditions that limit participation by persons of a particular race, color, or national origin.<sup>19</sup> In addition, HUD’s Section 504 regulation prohibits recipients from selecting sites the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefit of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.<sup>20</sup> ADA regulations likewise prohibit site selections that have the purpose or effect of excluding individuals with disabilities (including members of the public with disabilities), denying them benefits, or subjecting them to discrimination.<sup>21</sup> Finally, the Fair Housing Act prohibits discriminatory site selection, including perpetuation of segregation in transfers of assistance and new construction.
- Meaningful Access for Persons with Limited English Proficiency (LEP):** The PHA or Project Owner is required to take reasonable steps to ensure (a) they provide meaningful access to programs and activities for persons who have a limited ability to read, speak, or understand English; (b) any person with LEP who will be temporarily relocated or

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<sup>16</sup> 24 C.F.R. § 5.150 *et seq.*

<sup>17</sup> See 24 C.F.R. § 5.150 *et seq.* and 24 C.F.R. §§ 91.225, 91.325, or 91.425.

<sup>18</sup> See 24 C.F.R. § 1.4(b)(3).

<sup>19</sup> See 24 C.F.R. § 1.4(b)(6).

<sup>20</sup> See 24 C.F.R. § 8.4(b)(5).

<sup>21</sup> See 28 C.F.R. § 35.130(b)(4); 28 C.F.R. § 36.301.

permanently displaced has meaningful access to any public meetings regarding the project; and (c) they provide meaningful access to LEP persons to any information provided to residents including, but not limited to, any relocation notices. Generally, the PHA or Project Owner will be responsible for providing oral interpreters at meetings, including ensuring their competence, and covering any associated translation and interpretation costs.<sup>22</sup>

- **Effective Communication for Persons with Disabilities:** Communications and materials must be provided in a manner that is effective for persons with hearing, visual, and other communication-related disabilities consistent with Section 504 of the Rehabilitation Act of 1973 (24 C.F.R. § 8.6) and with 49 C.F.R. § 24.5, and as applicable, the Americans with Disabilities Act. This includes ensuring that, unless such actions would result in undue financial and administrative burdens or fundamental alterations, notices and resident meetings are provided in appropriate alternative formats as needed, e.g., Braille, audio, large type, accessible electronic communications, assistive listening devices, and sign language interpreters. Even in cases where the proposed actions may result in undue financial and administrative burdens or fundamental alterations, certain actions must still be taken. Specifically, appropriate auxiliary aids and services that would not result in such undue burdens or fundamental alterations must still be provided to ensure effective communication.
- **Accessible Meeting Facilities for Persons with Disabilities:** Pursuant to regulations implementing Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990, as applicable, all programs and activities must be held in accessible locations unless doing so would result in an undue financial and administrative burden on the PHA and/or Project Owner, in which case the PHA or Project Owner must take any action that would not result in such undue burden but would nevertheless ensure that individuals with disabilities receive the benefits and services of the program or activity, e.g., briefings at an alternate accessible site or in-home briefing.<sup>23</sup> Individuals with disabilities must receive services in the most integrated setting appropriate to their needs. The most integrated setting appropriate to the needs of qualified individuals with disabilities is a setting that enables individuals with disabilities to interact with persons without disabilities to the fullest extent possible.<sup>24</sup>

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<sup>22</sup> For more information about LEP obligations, see HUD's Limited English Proficiency (LEP) Frequently Asked Questions guidance at

[http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/fair\\_housing\\_equal\\_opp/promotingfh/lep-faq#q26](http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/promotingfh/lep-faq#q26).

<sup>23</sup> In selecting locations for consultation with residents, the PHA and/or Project Owner shall be guided by the goal of maximizing participation in an integrated setting so that residents with disabilities and residents without disabilities may hear and consider each other's views. Priority shall be given to using on-site accessible locations (including, e.g., TV rooms or informal gathering places), even if doing so may require multiple sessions with smaller groups of residents. In addition, Title III of the Americans with Disabilities Act requires private entities that operate places of public accommodation, including social service establishments, leasing offices of private housing developments, and certain private housing providers, to comply with certain physical accessibility requirements which are similar to the requirements under Section 504 and Title II.

<sup>24</sup> See 28 C.F.R. part 35, Appendix B.

- Accessibility for Persons with Disabilities Throughout the Planning and Implementation Process:** A number of accessibility requirements, including but not limited to site selection, apply to all RAD conversions, as they do to the PHA's activities regardless of the PHA's participation in RAD.<sup>25</sup> PHAs and Project Owners should also be aware that state or local laws, regulations, and codes may contain greater accessibility requirements. This Notice provides, in Appendix I, Part 2, an overview of accessibility requirements under existing law. The information in Appendix I, Part 2 is intended to assist with the PHA's or Project Owner's compliance with accessibility requirements. PHAs and Project Owners must review Appendix I, Part 2 early-on in planning for the RAD transaction. PHAs and Project Owners may determine that it is most efficient to address accessibility matters early in the project planning. In addition, PHAs and Project Owners must evaluate, throughout the transaction and based on the facts of their situation, which requirements are applicable in which situations to ensure they appropriately address accessibility requirements. PHAs and Project Owners are responsible for ensuring that the architectural drawings and construction comply with the PHA's and Project Owner's obligations and all Federal civil rights requirements, including accessibility requirements under the Fair Housing Act, Section 504, and the ADA.

Accessibility requirements also apply during all stages of a RAD transaction, including during relocation. Existing information (e.g., resident characteristics forms, including identification of the need for accessible unit features; records of approved reasonable accommodations; and records of the presence of accessible unit features) and the residents themselves should be consulted throughout the process of developing and implementing a RAD conversion. Related activities include, but are not limited to:

- Identifying and maintaining existing and pending reasonable accommodations, including the need for larger units to accommodate live-in aides or special equipment;
- Determining what direct services may be needed as a reasonable accommodation (e.g., packing, moving, identification of temporary housing);
- Identifying accessible unit features and assuring that temporary or permanent replacement housing contains comparable features;
- Budgeting appropriately to ensure that reasonable accommodations are addressed.

For more information about compliance with accessibility requirements, the PHA or Project Owner should refer to appropriate notices concerning civil rights requirements and may contact HUD's Office of Fair Housing and Equal Opportunity in either the Washington, D.C. or applicable field offices for more specific guidance. For additional, non-exhaustive guidance on providing relocation assistance to persons with disabilities, see Exhibit 3-1 in HUD Handbook 1378.

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<sup>25</sup> For more detailed information on these laws and their requirements, see PIH Notice 2010-26, issued July 26, 2010 (available at <http://www.hud.gov/offices/pih/publications/notices/10/pih2010-26.pdf>). While this notice has an expiration date in 2011, because the notice summarizes and discusses regulatory requirements, the information in the notice provides helpful guidance.

- Reasonable Accommodations in Rules, Policies, Practices and Services:** Under the Fair Housing Act, the PHA or Project Owner must make reasonable accommodations in rules, policies, practices, and services when such accommodations may be necessary to afford a person with a disability an equal opportunity to use and enjoy a dwelling.<sup>26</sup> Under Section 504, the PHA or Project Owner must also make reasonable accommodations to residents with disabilities, which may include providing and paying for structural modifications to dwelling units and public or common use areas. Titles II and III of the ADA provide similar requirements. Common examples of reasonable accommodations that may occur during relocation are permitting an individual with a disability to relocate near public transportation, providing a unit larger than otherwise permitted for a live-in aide, and making exceptions to no-animal rules for assistance and service animals. Accommodations generally need not be made where providing such an accommodation would be an undue financial and administrative burden or a fundamental alteration of the nature of the service. However, reasonable accommodations must be made to the extent the accommodation does not impose an undue financial and administrative burden or a fundamental alteration of the nature of the service. Reasonable accommodations must follow the individual with the disability throughout the RAD process, including during relocation. Furthermore, PHAs and Project Owners may be required to provide particular reasonable accommodations during relocation, such as assistance moving household items.<sup>27</sup>
- Physical Changes to Dwelling Units, Public and Common Use Areas and Other Facilities for Accessibility:** Under the Fair Housing Act, the PHA or Project Owner may be required to permit reasonable modifications. A reasonable modification is a structural change made to existing premises, occupied or to be occupied by a person with a disability, in order to afford such person full enjoyment of the premises. Reasonable modifications can include structural changes to interiors and exteriors of dwellings and to common and public use areas. A request for a reasonable modification may be made at any time during the tenancy. When relocating an individual with a disability who has such modifications in their dwelling unit or public and common use areas because of the individual's disability, regardless of who made them, the PHA or Project Owner has an obligation to provide and pay for such modification in the new dwelling. When considering requests by individuals with disabilities for structural changes to units or public and common use areas, PHAs and Project Owners should take particular note that they may be required to make and pay for such structural modifications as reasonable

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<sup>26</sup> For additional information regarding reasonable accommodations under the Fair Housing Act, *see* the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Accommodations Under the Fair Housing Act (May 17, 2004), at <http://www.hud.gov/offices/fheo/library/huddojstatement.pdf>.

<sup>27</sup> *See* 49 C.F.R. part 24, Appendix A, § 24.2(a)(8)(vii), which states that under the URA, "Reasonable accommodation of a displaced person with a disability at the replacement dwelling means the Agency is required to address persons with a physical impairment that substantially limits one or more of the major life activities. In these situations, reasonable accommodation should include the following at a minimum: Doors of adequate width; ramps or other assistance devices to traverse stairs and access bathtubs, shower stalls, toilets and sinks; storage cabinets, vanities, sink and mirrors at appropriate heights. Kitchen accommodations will include sinks and storage cabinets built at appropriate heights for access. The Agency shall also consider other items that may be necessary, such as physical modification to a unit, based on the displaced person's needs."



accommodations under Section 504 and because of similar requirements under the ADA even though the Fair Housing Act may only require the owner to allow such changes to be made and paid for by the individual with a disability. Before determining that they are not required to make or pay for structural changes, PHAs and Project Owners are encouraged to consider carefully their obligations under each applicable statute.

## **SECTION 5. Application of Key Fair Housing and Civil Rights Requirements to RAD Transactions**

The generally applicable fair housing and other civil rights requirements described above, and in Appendix I, apply throughout the planning and implementation of a RAD transaction and the PHA is responsible for ensuring compliance with these requirements. As key requirements may be misunderstood, the RAD program has established specific additional procedures to assist RAD participants to ensure they comply with the applicable requirements. Specifically, the RAD Notice established a civil rights eligibility review and criteria for front-end civil rights reviews.

This Section elaborates on these requirements from the RAD Notice. The front-end review procedures described below establish procedures and criteria for the supplemental front-end review and technical assistance, criteria which are specific to the RAD program. Criteria for this supplemental front-end review are informed by, but not the same as, fair housing or civil rights rules and policies generally.

This Section is organized to loosely follow the stages of a RAD conversion transaction, beginning with RAD eligibility and continuing through site selection, transfer of assistance, unit design requirements and marketing. In addition, this Section describes the timing and procedures for submitting data and documents to HUD so that HUD may complete its front-end review. The submission procedures are also designed to serve as a tool for PHAs to identify issues of potential concern at appropriate stages of the RAD conversion and as a tool for HUD to identify potential needs for technical assistance.

### **5.1. RAD Eligibility Review**

To be eligible for RAD, the PHA must meet all eligibility requirements set forth in Section 1.3 of the RAD Notice, including the civil rights threshold requirements found at Section 1.3.G of the RAD Notice. A PHA must not have a charge, cause determination, lawsuit, or letter of findings, referenced in Section 1.3.G of the RAD Notice, against the PHA itself, its transferees, proposed development partners, or sub-recipients that has not been resolved, or is not in the process of being resolved, to HUD's satisfaction. This determination shall be made prior to issuance of the CHAP.

The CHAP may be revoked by HUD if HUD determines that the terms of the conversion would be inconsistent with fair housing and civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement. HUD may terminate a CHAP or RCC if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or is inconsistent with, would hinder, or would delay satisfaction of a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.



HUD may terminate an approval to proceed with a RAD conversion if it determines that the terms of the conversion would be inconsistent with fair housing or civil rights laws or a fair housing or civil rights court order, settlement agreement, or voluntary compliance agreement.

## 5.2. PHA's Proposed Site Selection and Certification

For all RAD conversions, the PHA must comply with all applicable site selection requirements as set forth in this Notice and the RAD Notice and in accordance with any additional applicable published guidance provided by HUD. As set forth in the RAD Notice, conversions of assistance to PBV involving new construction, whether on a new site or on a current site, are subject to the site selection standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (e), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2). All other conversions to PBV, including transfers of assistance to an existing property other than the Converting Project, are subject to the standards set forth in 24 C.F.R. § 983.57(a), (b), (c) and (d), but excluding 24 C.F.R. § 983.57(b)(1) and (c)(2).<sup>28</sup> Site selection requirements set forth at Appendix III of the RAD Notice apply to RAD conversions to PBRA assistance, as does the requirement not to place housing in neighborhoods with highly concentrated poverty based on the criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937.<sup>29</sup> PBV and PBRA site selection must also be consistent with the requirements of the Fair Housing Act, Title VI, Section 504, the ADA and their implementing regulations.

It is the PHA's responsibility to ensure that the site selection complies with all applicable site selection requirements, including the requirements of this Notice and the RAD Notice. Pursuant to the RAD Notice, the PHA must certify with the submission of its Annual Plan, Significant Amendment to its Annual Plan, or MTW Plan that it complies with the applicable site selection requirements and must maintain records of its analysis and the data relied upon in making its determination of compliance. The PHA must also determine and subsequently state in the certification that the site is "suitable from the standpoint of facilitating and furthering full compliance with the applicable provisions of Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, and HUD regulations issued pursuant thereto."<sup>30</sup> Although this Notice provides detail regarding certain civil rights-related site and neighborhood standards, PHAs must certify compliance with all applicable site and neighborhood standards.<sup>31</sup>

The PHA must also certify that, in conducting its review of site selection for the proposed project, the PHA completed a review with respect to accessibility for persons with disabilities and that the proposed site is consistent with applicable accessibility standards under the Fair Housing Act, Section 504, and the ADA. The site and neighborhood standards for PBV and PBRA require the site to be "suitable from the standpoint of facilitating and furthering full compliance with" the Fair Housing Act and require the site to meet the Section 504 site selection

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<sup>28</sup> See the provisions of Section 1.6.A.4 of the RAD Notice.

<sup>29</sup> 42 U.S.C. § 1437f(bb).

<sup>30</sup> For RAD conversions to PBRA, the RAD Notice uses the term "the site and neighborhood is suitable," rather than "the site is suitable." See Appendix III of the RAD Notice, paragraph (a).

<sup>31</sup> See 24 C.F.R. § 983.57 and the RAD Notice at Section 1.4(A)(7)

requirements described in 24 C.F.R. § 8.4(b)(5).<sup>32</sup> The Fair Housing Act, as implemented at 24 C.F.R. § 100.205, requires “covered multifamily dwellings” built for first occupancy after March 13, 1991, to contain accessible design features. HUD’s Section 504 regulations at 24 C.F.R. § 8.4(b)(5) require that, in determining the site or location of a federally assisted facility, an applicant for assistance or recipient may not make selections the purpose or effect of which would: (i) exclude qualified individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination under, any program or activity that receives Federal financial assistance from HUD, or (ii) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities. Title II of the ADA contains a similar requirement that a public entity, such as the PHA, may not, in determining the site or location of a facility, make selections (i) that have the effect of excluding individuals with disabilities from, denying them the benefits of, or otherwise subjecting them to discrimination; or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the service, program, or activity with respect to individuals with disabilities.<sup>33</sup> Factors relevant to a site review under these standards may include, among others:

- Site features, such as inaccessible slopes in routes, lack of accessible sidewalks, curb ramps, accessible parking spaces, and placement of dumpsters or other physical features that would impede access to and movement within the site;
- Building features, such as inaccessible building entrances, other methods of ingress and egress, public and common use areas (e.g., the rental office, parking areas, mail areas, trash areas, community rooms, shared use toilet rooms, laundry facilities and walkways inside and outside that connect these public and common use areas to units), and barriers to access by members of the public; and
- Lack of accessible transit or para-transit and accessible public sidewalks and accessible transportation stops.

When such conditions are present at the site and would exclude individuals with disabilities from, deny them the benefits of, or otherwise subject them to discrimination, or would defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to individuals with disabilities, the site must not be selected unless the proposal includes remediation of the barriers to achieve compliance with accessibility requirements (including identification and remediation of any nonconforming design and construction conditions in “covered multifamily dwellings” under the Fair Housing Act). Remediation of the barriers may include, for example, physical accessibility improvements to the site, arrangements for access to accessible supportive services, or reasonable accommodations for current or prospective residents with disabilities, including members of the public. The Financing Plan submitted to HUD must describe and document resources sufficient to pay for the remediation of accessibility barriers.<sup>34</sup>

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<sup>32</sup> See 24 C.F.R. § 983.57(b)(2) (PBV conversions); *see also*, Appendix III (a) of the RAD Notice (PBRA conversions).

<sup>33</sup> See 28 C.F.R. § 35.130(b)(4).

<sup>34</sup> In conducting its review prior to certification, and in preparing for the certification, PHAs and Project Owners may find it useful to consult with their local or regional FHEO office, the United States Access Board, local or state

While all PHAs must certify their compliance with applicable site selection requirements as described in this Section, some RAD transactions will also be subject to a front-end review of the site selection. For transactions involving activities that present site selection issues of greater complexity, as described in Sections 5.3 through 5.5 below, front-end review will allow HUD's Office of Fair Housing and Equal Opportunity (FHEO) to assist the PHA to consider relevant laws and regulations while completing its site selection review and certification.

### **5.3. RAD Front-End Civil Rights Transaction Review**

Fair Housing Act and other civil rights issues may arise throughout a RAD transaction. Under the Fair Housing Act, an assessment of site suitability includes an analysis of the impact that the siting of the project would have on patterns of segregation for protected classes. The Fair Housing Act is of particular importance when a RAD proposal concerns site selection for new construction or reconfiguration of housing on the original public housing site – for example, the unit size distribution (e.g., conversion of larger bedroom size units to one-bedroom units, which may have an adverse impact on housing opportunities for families with children) or a reduction in the number or distribution of accessible units (which may have an adverse impact on housing opportunities for persons with disabilities). RAD conversions involving new construction must also comply with the Fair Housing Act's accessibility requirements.

Compliance with all applicable fair housing and civil rights requirements is the responsibility of both the PHA and the Project Owner. However, to assist with compliance, HUD's Office of Fair Housing and Equal Opportunity (FHEO) will conduct a front-end civil rights review of project proposals containing activities identified as particularly at risk of violating applicable fair housing and civil rights laws. The activities that must be submitted for front-end civil rights review are listed in Section 5.3(A), below.

#### *A) Activities Subject to Front-End Civil Rights Review*

All RAD conversions that include one or more of the activities listed below (Sections 5.3(A)(1) through 5.3(A)(9)) are subject to a front-end review for compliance with certain civil rights and fair housing requirements. The specific items that HUD will review in the front-end review will depend on which activities are involved in the specific transaction. A RAD conversion may not include one of the activities below without prior written approval from HUD. All Financing Plans must include evidence that the PHA has secured written approval from HUD for any of the following activities that are included in its RAD conversion:

- (1) Conversions of assistance involving new construction, whether on a new site or on a current site, in an area of minority concentration. Front-end review of this activity shall be pursuant to Section 5.4(B), below and, in addition, the PHA shall

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architectural access board or other accessibility authority for information on accessibility standards. Other sources of information on accessibility requirements may include protection and advocacy organizations or independent living centers. In addition, the non-HUD resources may provide advice on how to assess accessibility needs and formulate physical accessibility strategies.

certify in its Annual Plan compliance with site and neighborhood standards applicable to new construction as described in Section 5.2.

- (2) Transfers of assistance where all or a portion of the Converting Project's assistance is transferred to a new site(s) (either new construction or to an existing project) as part of the subject transaction. Front-end review of this activity shall be pursuant to Section 5.5(B), below and, in addition, the PHA shall certify in its Annual Plan compliance with site and neighborhood standards applicable to existing housing as described in Section 5.2.
- (3) Conversions of assistance where the total number of units in the Covered Project is less than the original number of units in the Converting Project (this includes de minimis reductions). Front-end review of this activity shall be pursuant to Section 5.6.
- (4) Conversions of assistance where the Covered Project's unit configuration is different from the unit configuration of the Converting Project. Front-end review of this activity shall be pursuant to Section 5.6.
- (5) Conversions involving a change in occupancy, where the Covered Project serves a different population from the one served by the Converting Project (e.g., when a Converting Project serves families but the Covered Project is subject to an elderly preference or introduction of restrictions or preferences based on age or disability that will change the occupancy of the property). Front-end review of this activity shall be pursuant to Section 5.6.
- (6) Conversions of assistance in which the construction schedule indicates that relocation is likely to exceed 12 months. Front-end review of this activity shall be pursuant to Section 5.7(A).
- (7) Conversions of assistance involving new construction or substantial alteration,<sup>35</sup> as those terms are defined in Section 504 of the Rehabilitation Act of 1973. Front-end review of this activity shall be pursuant to Section 5.7(B).
- (8) Conversions of assistance involving a Converting Project subject to a Voluntary Compliance Agreement or Conciliation Agreement with HUD or a Consent Decree or Settlement Agreement with the U.S. Department of Justice or HUD, or where the PHA is subject to such an agreement affecting its entire housing portfolio or otherwise related to the Converting Project. Front-end review of this activity shall be pursuant to Section 5.7(C).

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<sup>35</sup> Section 504 defines substantial alteration of a housing project as alterations where a housing project has 15 or more units, and the rehabilitation costs will be 75% or more of the replacement cost of the completed facility. *See* 24 C.F.R. § 8.23 (a).

- (9) Conversions of assistance where HUD has identified potential fair housing and civil rights concerns or a history of such concerns. Front-end review of this activity shall be pursuant to Section 5.7(C).

PHAs should note that a proposed RAD conversion may trigger front-end review regarding more than one of the activities listed in subsections (1) through (9) of this Section. For example, depending on the details of the proposal, a new construction on-site project could require review under subsections (1), (3), (4), (5), (6), and (7), or could require review under only subsections (1) and (7).

As part of HUD's review of these elements of the RAD conversion plans, HUD may require that PHAs that are carrying out portfolio or multi-phased conversions provide information on their conversion plans for other projects or subsequent phases to ensure that the overall plans for RAD conversion are consistent with civil rights and fair housing.

*B) Fair Housing, Civil Rights, and Relocation Checklist*

In connection with HUD's front-end fair housing and civil rights and relocation reviews described in this Section 5 and in Section 6, HUD is requiring submission of a Fair Housing, Civil Rights, and Relocation Checklist (the "Checklist"). The Checklist will facilitate the PHAs' and Project Owners' submission of necessary information to complete these reviews.<sup>36</sup> HUD anticipates that a revised Checklist, when available following Paperwork Reduction Act approval, will be separated into parts which can be submitted incrementally as the PHA and Project Owner develop the RAD transaction plans, with different elements of the Checklist applicable at different stages of the transaction planning process. For example, submissions regarding site selection for a RAD transaction involving new construction may occur well before submissions regarding a proposal to change the unit configuration.

The Checklist will outline the minimum information or documentation which HUD will need in order to review each part of the Checklist. After HUD's initial review of any portion of the Checklist, HUD may determine that the data provided in the Checklist is insufficient for HUD to complete its review, in which case HUD may require the PHA or Project Owner to provide supplemental information. The PHA should submit each part as early as possible once the information covered in the applicable part is known. All information specified in the applicable

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<sup>36</sup> The Checklist is available at [www.hud.gov/rad](http://www.hud.gov/rad). As of the publication of this Notice, references to the Checklist refer to the existing FHEO Accessibility and Relocation Plan Checklist under OMB Approval 2577-0276. The PHA shall use the existing Checklist to provide information related to demonstrating compliance with fair housing, other civil rights, and relocation requirements (including accessibility requirements) and, as necessary, may require additional materials for HUD to complete its review, which the PHA may provide in such form as the PHA determines appropriate. Also at [www.hud.gov/rad](http://www.hud.gov/rad), HUD has provided a listing of information that, depending on the circumstances, HUD may require to complete different components of its front-end review. The Checklist is being revised to fully capture the submission requirements described in this Notice. The revised Checklist will be subject to Paperwork Reduction Act approval and will be posted at the website listed above when available for use.

part of the Checklist must be submitted to HUD for HUD to begin its civil rights review – partial submissions of any applicable part of the Checklist will not be accepted.<sup>37</sup>

*C) Timing of Front-End Review Submissions*

PHAs and Project Owners are encouraged to submit applicable portions of the Checklist and information associated with a particular activity subject to front-end review as early as possible in the development of their plans. The PHA must ensure that HUD has approved all applicable parts of the Checklist prior to submission of the Financing Plan. Upon request from the PHA, HUD may, at HUD's sole discretion, permit submission of the Financing Plan prior to receipt of approval of the applicable parts of the Checklist and conditioned upon subsequent receipt of such approvals, in which event the PHA and Project Owner may proceed at their own risk.

Early approval of the site of the Covered Project is critical for RAD transaction proposals subject to front-end civil rights review involving site selection standards, specifically new construction in areas of minority concentration (see Section 5.3(A)(1)) and transfers of assistance (see Section 5.3(A)(2)). The PHA must conduct its own assessment of the site during the early stages of planning its RAD transaction. The guidance in this Notice and the Checklist are tools intended to assist the PHA in conducting its own assessment of the site.

The PHA must provide HUD with the Checklist and backup information sufficient for HUD to review the site with respect to the applicable standards. The site selection information should be provided to HUD no later than ninety (90) days following the issuance of the CHAP or, if the CHAP has already been issued as of the publication of this Notice, within ninety (90) days following publication of this Notice. In the event of a change in plans for the Converting Project that would require a front-end review of the site selection standards, the PHA must provide the Checklist and backup documentation within sixty (60) days of the change in plans. PHAs are strongly encouraged to provide front-end review submissions and secure HUD approval prior to applying for LIHTCs or taking action the reversal of which (in the event of non-approval of the site) would be detrimental to the PHA or the Project Owner. PHAs are also encouraged to contact FHEO for technical assistance prior to submission of these materials.

All PHAs shall submit a certification consistent with the requirements of Section 5.2, above. This certification may be prepared specifically in connection with the Checklist or as part of the PHA Annual Plan or Significant Amendment. However, HUD will not consider a submission complete for front-end civil rights review without this certification. All RAD conversions must submit the PHA certification described in Section 5.2 no later than at the time of submission of the Financing Plan.

*D) Completion of HUD's Front-End Review*

HUD will not approve a RAD conversion if HUD determines that the conversion would operate to discriminate in violation of applicable fair housing and civil rights laws. HUD will not approve proposals that have the purpose, intent, or effect of discriminating on the basis of

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<sup>37</sup> The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

protected class (*i.e.*, race, color, national origin, religion, sex, disability, and familial status). If HUD does not approve a proposed activity based on a front-end review, then it will provide a written description of concerns or deficiencies. The PHA may resubmit the front-end review materials with a changed proposal and/or with additional information addressing HUD's concerns and any deficiencies in the proposal or the submission.

In some circumstances, a special condition to the transaction's RCC will be necessary to ensure that a RAD transaction conforms to fair housing and civil rights requirements. Special conditions to the RCC reflect the conditions necessary in order to complete the RAD conversion. For example, if there is an outstanding remedial agreement or order requiring particular development activities or operating policies to correct a violation of a fair housing or other civil rights requirement, the RCC generally will condition participation in RAD upon agreement by the PHA or the Project Owner, as applicable, to comply with the provisions of such agreements or orders after conversion.

#### **5.4. Front-End Civil Rights Review for RAD Transactions Involving New Construction**

##### *A) Conditions Triggering Review*

If the proposed project is located in an area of minority concentration, the new site may be approved only if it falls under a permitted exception and meets the other site selection requirements described in Section 5.2. Under the PBV and PBRA site and neighborhood standards, HUD may approve new construction in an area of minority concentration, consistent with the regulatory requirements cited above, only if:

- a. Sufficient, comparable housing opportunities for minority families in the income range to be served by the proposed project exist outside areas of minority concentration; or
- b. The project is necessary to meet overriding housing needs that cannot be met in that housing market area.<sup>38</sup>

As described in the RAD Notice and in Section 5.3(A) of this Notice, above, HUD will conduct a front-end civil rights review of the PHA's proposed site in certain circumstances. This Notice specifies that for conversions of assistance involving new construction where there are indications that the site may be located in an area of minority concentration per the criteria in subsections (i), (ii), or (iii), below (whether the construction is located on the existing public housing site or on a new site), HUD will conduct a front-end civil rights review of the site to determine whether the site is in an area of minority concentration and, if so, whether it meets one of the exceptions that would allow for new construction in an area of minority concentration.

The PHA shall submit for HUD front-end review the PHA's findings, together with backup documentation, regarding site selection when the site meets any of the following criteria:

- i. The PHA self-identifies the area of the site as an area of minority concentration,

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<sup>38</sup> 24 C.F.R. § 983.57(e)(3) and Appendix III of the RAD Notice, paragraph (e).

- ii. The census tract of the site meets the extent of minority concentration described in Section 5.4(B)(1), below, or
- iii. An area comprised of the census tract of the site together with all adjacent census tracts, analyzed as a whole, meets the extent of minority concentration described in Section 5.4(B)(1), below.

If any of these three criteria is applicable, HUD will conduct a review to determine whether the site is in an area of minority concentration and, if applicable, whether the proposed site fits one of the exceptions permitting new construction in an area of minority concentration described in this Section 5.4. A proposed RAD transaction which does not meet one of these triggers must still be evaluated by the PHA and the PHA must certify compliance with the site selection requirements as described in Section 5.2, above.

A PHA seeking to undertake new construction must receive written approval from HUD of any site selection subject to front-end review prior to entering into any construction contract for that new construction.

#### *B) Analysis of Areas of Minority Concentration*

This Section sets forth the methodology that HUD will use in the analysis of the extent of minority concentration, the area of the site, and the housing market area for purposes of the RAD front-end civil rights review. As noted below, this analysis is fact specific and PHAs may submit documentation to inform HUD's analysis in cases where there is strong evidence that an alternative methodology would be more appropriate.

- (1) For purposes of RAD, a site is considered to be in an area of minority concentration when either (i) the percentage of persons of a particular racial or ethnic minority within the area of the site is at least 20 percentage points higher than the percentage of that minority group in the housing market area as a whole or (ii) the total percentage of minority persons within the area of the site is at least 20 points higher than the total percentage of minorities in the housing market area as a whole.<sup>39</sup>
- (2) For purposes of RAD, the analysis of an area of minority concentration will use census tracts to approximate the "area" of the site but the analysis may consider alternate proposed geographies instead of the census tract in instances where there is strong evidence that such geography is more appropriate. Strong evidence that an alternative geography is more appropriate includes: (i) that the site is close to the edge of the census tract, (ii) that the population of the census tract is heavily influenced by the size of the Converting Project, or (iii) that the local community

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<sup>39</sup> The percentage of minorities shall be calculated by subtracting the percentage of White Non-Hispanic persons in the relevant area from 100%. The analysis shall be based on the most recently available decennial census data found at [http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC\\_10\\_DP\\_DPDP1&src=pt](http://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=DEC_10_DP_DPDP1&src=pt). However, if such data is more than five years old, and if either the PHA or HUD requests the use of more recent data based on such party's awareness of significant and material shifts in the demographics of the relevant area in the intervening years, the analysis shall be based on the most recent American Communities Survey data.



understanding of the immediate neighborhood dictates a different boundary. Local community understanding of the immediate neighborhood is often informed by factors such as patterns of housing stock (such as different residential densities in different areas or differential housing prices for similar properties), community facilities and amenities (such as schools and commercial areas) or major geographic barriers (such as rivers or interstate highways), among other factors.<sup>40</sup> HUD will determine the site's "area" using the best available evidence and following the legal standards set forth in applicable case law.

- (3) For purposes of the RAD analysis under this Section 5.4, a "housing market area" is the geographic region from which it is likely that residents of housing at the proposed site would be drawn for a given multifamily housing project. A housing market area generally corresponds to, as applicable: (i) the Metropolitan Statistical Area (MetroSA); (ii) the Micropolitan Statistical Area (MicroSA); or (iii) if the site is in neither a MetroSA nor a MicroSA, either (x) the county or statistically equivalent area, or (y) the PHA's service area, whichever is larger.<sup>41</sup> The analysis may consider a larger or smaller housing market area in instances where there is strong evidence that such housing market area is more appropriate. Strong evidence that an alternative housing market area is more appropriate may include factors such as regional employment centers and commuting patterns serving such employment centers. A PHA seeking to use an alternative housing market area must consult with HUD and establish to HUD's satisfaction that the methodology for identifying and documenting the alternative housing market area is warranted and sound.

### C) *The Sufficient Comparable Opportunities Exception*

As required by the RAD Notice and noted in Section 5.4(A), one of the exceptions under which the site and neighborhood standards permit new construction in areas of minority concentration is if sufficient, comparable housing opportunities for low-income minority families exist outside areas of minority concentration. This section clarifies HUD's procedures for assessing comparable housing opportunities and evaluating how the proposed new construction will impact the balance of housing choices within and outside areas of minority concentration. It also includes a list of the information PHAs should submit to inform HUD's assessment of relevant factors, and key considerations guiding HUD's analysis of each factor.

Under the governing PBV and PBRA requirements, units are considered comparable opportunities if they are the same household type (e.g., elderly, disabled, family, large family), tenure type (owner, renter), require approximately the same total tenant payment toward rent,

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<sup>40</sup> For further explanation, see, e.g., *King v. Harris*, 464 F.Supp.827, 839-41 (E.D.N.Y. 1979).

<sup>41</sup> Items (i) and (ii) are consistent with a Core Based Statistical Area as defined by the Office of Management and Budget. For reference, a Core Based Statistical Area consists of the county or counties or equivalent entities associated with at least one core (urbanized area or urban cluster) of at least 10,000 population, plus adjacent counties having a high degree of social and economic integration with the core as measured through commuting ties with the counties associated with the core.

serve the same income group, are located in the same housing market area, and are in standard condition.<sup>42</sup>

It is important to note that the sufficient comparable housing opportunities exception “does not require that in every locality there be an equal number of assisted units within and outside of areas of minority concentration. Rather, application of this standard should produce a reasonable distribution of assisted units each year, that, over a period of several years, will approach an appropriate balance of housing choices within and outside areas of minority concentration. An appropriate balance in any jurisdiction must be determined in light of local conditions affecting the range of housing choices available for low-income minority families and in relation to the racial mix of the locality’s population.”<sup>43</sup>

HUD will assess “the overall impact of HUD-assisted housing on the availability of housing choices for low-income minority families in and outside areas of minority concentration, and must take into account the extent to which the following factors are present, along with other factors relevant to housing choice.”<sup>44</sup> Under this exception, it is not sufficient for one factor to be present, nor is it required that all factors be present, as the analysis must consider all relevant facts and evaluate the totality of the circumstances.

- “A significant number of assisted housing units are available outside areas of minority concentration.”<sup>45</sup> While HUD must consider all factors relevant to housing choice, 30% or more of deeply subsidized housing units for very low-income persons would be a significant number. To facilitate HUD’s consideration of this factor, a PHA should provide the number, occupancy type, and location of all comparable assisted units.<sup>46</sup>
- “There is significant integration of assisted housing projects constructed or rehabilitated in the past 10 years, relative to the racial mix of the eligible population.”<sup>47</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the name and location of assisted housing projects constructed or rehabilitated in the PHA’s jurisdiction in the past 10 years and the demographic characteristics of the residents of each of these projects;
- “There are racially integrated neighborhoods in the locality.”<sup>48</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the name and census tracts where these racially integrated neighborhoods are located. In general, HUD will consider a neighborhood racially integrated if the neighborhood does not have a high concentration of persons of a particular race or ethnicity when compared to the housing market area in which the neighborhood is located.

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<sup>42</sup> See 24 C.F.R. § 983.57(e)(3)(iv) and Appendix III of the RAD Notice, paragraph (e)(1)(A).

<sup>43</sup> 24 C.F.R. § 983.57(e)(3)(iii); *see also* Appendix III of the RAD Notice, paragraph (e)(1).

<sup>44</sup> 24 C.F.R. § 983.57(e)(3)(v); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B).

<sup>45</sup> 24 C.F.R. § 983.57(e)(3)(v)(A) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(i).

<sup>46</sup> Note that this factor is in reference to comparable assisted units that may or may not be in the PHA’s portfolio. The presumption stated at the end of this Section (i.e., that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA’s portfolio, including PBV developments using the PHA’s subsidy, are outside areas of minority concentration) is focused on units within the PHA’s portfolio.

<sup>47</sup> 24 C.F.R. § 983.57(e)(3)(v)(B) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(ii).

<sup>48</sup> 24 C.F.R. § 983.57(e)(3)(v)(C) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(iii).

- “Programs are operated by the locality to assist minority families that wish to find housing outside areas of minority concentration.”<sup>49</sup> Such programs may include measures such as increasing payment standards in excess of 110% of FMR or the use of Small Area FMRs, including in setting exception rents, or reservation of a percentage of HCVs dedicated to support choice mobility selections or implementation of proven mobility counseling and supports for residents, provided the PHA provides sufficient evidence that it will continue such measures. To facilitate HUD’s consideration of this factor, a PHA should provide the names of the applicable program(s); the entity responsible for implementing the program(s) (e.g., city, county, state government); and any information demonstrating that the program(s) has been successful or predictably will achieve success in assisting persons who wish to move to non-concentrated areas.
- “Minority families have benefited from local activities (e.g., acquisition and write-down of sites, tax relief programs for homeowners, acquisitions of units for use as assisted housing units) undertaken to expand choice for minority families outside of areas of minority concentration.”<sup>50</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the names of the applicable activity(s); the entity responsible for implementing the activity(s) (e.g., city, county, state government); and any information demonstrating that the activity(s) has been successful in expanding choice for minority families outside of areas of minority concentration;
- “A significant proportion of minority households has been successful in finding units in non-minority areas under the tenant-based assistance programs” (e.g., the Housing Choice Voucher programs).<sup>51</sup> To facilitate HUD’s consideration of this factor, a PHA should provide the number of minority households receiving Housing Choice Vouchers; the number of minority households using HCVs in non-minority areas; and the non-minority census tracts where the HCVs are being used. While each local situation is distinct and HUD must consider all factors relevant to housing choice, 30% or more of new leases signed by minority heads of household using HCVs located in non-minority areas over a period greater than three years prior to the date of HUD’s analysis would be a significant proportion.
- “Comparable housing opportunities have been made available outside areas of minority concentration through other programs.”<sup>52</sup> To facilitate HUD’s consideration of this factor, a PHA should describe the opportunities that have been made available, the location of those opportunities, and the number of minority families that have benefitted from the program in recent years. Such programs could include choice mobility strategies, acquisition strategies to acquire and add to the PHA’s portfolio existing apartments in high opportunity areas and transfers of assistance to high opportunity areas.

HUD may consider evidence based on a reliable housing market analysis in evaluating the foregoing factors, along with other factors relevant to housing choice. In the event HUD

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<sup>49</sup> 24 C.F.R. § 983.57(e)(3)(v)(D); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(iv).

<sup>50</sup> 24 C.F.R. § 983.57(e)(3)(v)(E); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(v).

<sup>51</sup> 24 C.F.R. § 983.57(e)(3)(v)(F); *see also* Appendix III of the RAD Notice, paragraph (e)(1)(B)(vi).

<sup>52</sup> 24 C.F.R. § 983.57(e)(3)(v)(G) and Appendix III of the RAD Notice, paragraph (e)(1)(B)(vii).

determines such an analysis would assist in this evaluation, HUD will consult with appropriate parties to establish or accept an appropriate methodology for such an analysis to address HUD's civil rights concerns and to ensure appropriate independence between the analyst and the PHA or Project Owner commissioning and paying for the study.

Absent information to the contrary, for purposes of HUD's front-end review of the PHA's analysis, HUD will apply a presumption that sufficient comparable opportunities exist if at least 50% of the comparable hard units in the PHA's portfolio, including PBV developments using the PHA's subsidy, are outside areas of minority concentration.<sup>53</sup> The PHA's portfolio includes all public housing, PBV and PBRA hard units (including those developed under HOPE VI or Choice Neighborhoods) controlled by the PHA and its instrumentalities or funded using PHA-controlled subsidy. Upon adequate documentation of this presumption, the PHA need not provide additional documentation for HUD's front-end review of the sufficient comparable opportunities exception. This presumption may be rebutted by information to the contrary, including information regarding the preceding factors. In assessing whether sufficient comparable opportunities exist when the presumption does not apply, HUD will consider the factors listed above.

Absent information to the contrary, for purposes of HUD's front-end review of the PHA's analysis, HUD will apply a presumption that sufficient comparable opportunities exist if a set of RAD conversions from a single public housing property, individually or in a combination of transactions, will result in the creation of as many similarly-affordable housing units outside areas of minority concentration as are constructed on the original public housing site. To evaluate the creation of similarly-affordable units, HUD will compare (i) the number of affordable units that will be redeveloped on site, to (ii) the number of similarly-affordable housing units that will be created through new construction, imposition of new long-term affordability restrictions or transfer of RAD assistance to one or more sites outside areas of minority concentration.<sup>54</sup> Similarly-affordable shall mean RAD units compared to RAD units and LIHTC/non-RAD units compared to LIHTC/non-RAD units. The newly created similarly-affordable units must be owned, controlled, sponsored, under common ownership, control or sponsorship, or financially supported by the PHA or by an entity with a managing ownership interest in the Project Owner. When a PHA seeks to claim this exception, HUD prefers that the transaction creating the similarly-affordable units on the site outside areas of minority concentration close (with an immediate or delayed HAP effective date, if applicable) prior to the closing of the RAD conversion in the area of minority concentration. However, if the PHA determines that such a sequence is not reasonably possible, unless otherwise approved by HUD the PHA must provide evidence to HUD that the transfer of assistance to a site outside areas of

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<sup>53</sup> When determining the percentage of units outside of areas of minority concentration, the PHA must include the number of units planned at the proposed site in its calculations. While not required, PHAs or Project Owners may assist HUD in consideration of this presumption by submitting to HUD a map produced by the Affirmatively Furthering Fair Housing Data and Mapping Tool ("AFFH-T"), as may be available on the HUD website from time to time, showing the location of publicly assisted housing.

<sup>54</sup> For example, if the PHA proposes to build 25 RAD units, 20 non-RAD LIHTC units and 15 unrestricted units on-site, such a plan could be acceptable if paired with creation of 15 RAD units at one site and 10 RAD units plus 20 non-RAD LIHTC units at a second site. The 15 unrestricted units in the minority concentrated area are not part of the analysis as they are not affordable units.

minority concentration is highly likely to occur and the PHA must contractually agree with HUD to create such units. Evidence that the transfer is highly likely to occur must include:

- The project name and property address of the site of the similarly-affordable units to be created,
- The census tract and data to confirm that it is not in an area of minority concentration,
- Evidence of site control,
- Evidence of zoning to permit construction of the similarly-affordable units if the affordable units are to be created through new construction,
- A reasonable and feasible sources and uses statement for the transaction, and
- Evidence of financing commitments exceeding 90% of the necessary sources to complete the transaction. Evidence of financing commitments must include an LIHTC allocation if the use of LIHTCs is projected.

#### *D) The Overriding Housing Needs Exception*

As noted in Section 5.4(A), the second exception under which the site and neighborhood standards permit new construction in areas of minority concentration is if the project is necessary to meet overriding housing needs that cannot be met in that housing market area. The new construction site selection standards under RAD<sup>55</sup> outline two examples of circumstances, consistent with fair housing and other civil rights objectives, that would permit the application of the overriding housing needs exception: (1) when the site is “an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood;” or (2) when the site is “located in a neighborhood experiencing significant private investment that is demonstrably improving the economic character of the area (a “revitalizing area”).”<sup>56</sup>

##### **(1) Establishing that a Site is an Integral Part of an Overall Local Strategy for the Preservation or Restoration of the Immediate Neighborhood**

To establish that a site is an integral part of an overall local strategy for the preservation or restoration of the immediate neighborhood, a PHA must document that the locality has a demonstrated commitment to revitalization that includes or is in addition to the RAD conversion, as demonstrated by the following:

- i. The site is located in a defined geographic area that is the subject of an official, currently operational and realistically achievable plan for the improvement or revitalization of the immediate neighborhood (which plan may include areas beyond the immediate neighborhood); and
- ii. The Covered Project conforms to, and the site is integral to, the goals, strategies, and objectives of the improvement or revitalization plan.

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<sup>55</sup> See 24 C.F.R. § 983.57(e)(2) for PBV transactions and paragraph (e) of Appendix III of the RAD Notice for PBRA transactions.

<sup>56</sup> 24 C.F.R. § 983.57(e)(3)(vi); see also Appendix III of the RAD Notice, paragraph (e)(1)(B)(viii)(2). In demonstrating an overriding housing need, the “neighborhood” is determined in each situation based on the overall facts and circumstances and cannot be mechanically determined. The “immediate neighborhood” is generally a smaller geographic area than the “neighborhood.”

In determining whether such an official, currently operational and realistically achievable plan for the improvement or revitalization of the area exists, HUD will consider relevant factors including, for example, whether:

- The strategy itself, or a plan supporting the strategy, has been enacted, adopted, or ratified by a municipal, county, or state legislative body;
- There has been progress to implement the plan, or the strategy as a whole.<sup>57</sup>
- The plan or strategy as a whole, or the elements applicable to the Covered Project, are consistent with the jurisdiction's land use or zoning code, development regulations, or other official body of laws or rules;
- Strategies or activities under the plan are incorporated in current public, quasi-public agency or major institutional work plans;
- The plan, or the strategy as a whole, includes objectives and initiatives related to the preservation or restoration of a geography larger than the Converting Project and any associated public housing site;
- A jurisdiction has published solicitations or incentives for development projects in the improvement or revitalization area;
- The plan is incorporated in the applicable jurisdiction's Consolidated Plan or other comprehensive community development plan;
- A jurisdiction has explicitly designated the geographic area for improvement or revitalization (e.g., Business Improvement District; Enterprise Zone designation; Promise Zone designation; Choice Neighborhoods designation);
- An implementing agency has retained a construction firm to break ground on the improvement or revitalization; and/or
- An implementing agency has secured financing, such as the issuance of bonds or final approval for tax increment financing.

(2) Establishing that the Site is Located in a "Revitalizing Area"

Evidence that the site is located in a revitalizing area experiencing significant private investment that is demonstrably improving the economic character of the area is also an example of a site which meets an overriding housing need. HUD will consider all relevant factors in making a determination that the site is located in a "revitalizing area" but in particular will consider whether:

- i. The neighborhood has demonstrated signs of revitalization, through indicators such as low or declining census tract poverty rates, low or declining violent crime rates or evidence of high or increased educational opportunity, high or increasing median

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<sup>57</sup> Indicators of progress should be appropriate to the amount of time since the plan or strategy was developed and there must be a reasonable, supportable expectation that the plan will continue to be implemented. For example, if a plan was launched 3-4 years prior and the initial steps of the plan required implementation of an initiative (such as real estate development) which has a long pre-development planning period, HUD may consider whether there has been activity to seek land development approvals or to develop construction drawings or to secure funding commitments or other activities providing evidence that one or more material elements of the plan or strategy are actually being implemented.

- household income, high or increasing homeownership rates and/or high or increased employment; and
- ii. There is high private and public investment in retail, commercial, or housing development that has occurred or will imminently occur in the area which may include, among other considerations:
    - Evidence of new or improved retail centers, grocery stores, pharmacies, healthcare facilities, community centers, educational and recreational facilities, municipal services, and transportation serving the neighborhood;
    - Evidence of private and public investment or housing development that has occurred or will imminently occur in the area;
    - Evidence of economic conditions that are impacting the preservation of affordable housing in the neighborhood, including indicators of gentrification such as housing costs rising more sharply in the neighborhood than in the jurisdiction overall, accelerated rates of homeownership in the neighborhood, and disproportionate depletion of larger dwellings for families with children.

### (3) Circumstances in Which an Overriding Housing Needs Exception Does Not Apply

A PHA cannot establish that a site meets the overriding housing needs exception if the only reason the need cannot otherwise be feasibly met is that discrimination on the basis of race, color, religion, sex, national origin, age, familial status, or disability renders sites outside areas of minority concentration unavailable or if the use of this standard in recent years has had the effect of circumventing the obligation to provide housing choice.<sup>58</sup> For example, the overriding housing needs exception may not be applied if the reason that the project cannot be sited outside of an area of minority concentration is due to community opposition to the project based on the actual or perceived protected characteristics of the residents or prospective residents of the project. In addition, a recipient may not exclusively rely on this exception as a means of siting projects without creating housing opportunities outside of areas of minority concentration or without preserving existing housing outside of areas of minority concentration.

## 5.5. Front-End Civil Rights Review for RAD Transactions Involving Transfer of Assistance

### A) *Applicable Standards*

Transfers of assistance are subject to the site selection standards for existing or rehabilitated housing set forth in 24 C.F.R. § 983.57(a)-(d), with the exception of 24 C.F.R. § 983.57(b)(1) and (c)(2), for PBV conversions and Appendix III of the RAD Notice for PBRA conversions. All transfers of assistance to a new site(s) are subject to front-end review by HUD, as required by the RAD Notice and noted in Section 5.3(A)(2) of this Notice. Conversions involving a transfer of assistance may also involve one or more of the other activities which trigger front-end review as described in Section 5.3(A). In transfers of assistance involving any of these activities, HUD

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<sup>58</sup> 24 C.F.R. § 983.57(e)(3)(vi) and Appendix III of the RAD Notice, paragraph (e)(2). The PBRA site and neighborhood standards use the phrase “on the basis of race, color, creed, sex or national origin.” See Appendix III of the RAD Notice.

will conduct a front-end review based on the requirements applicable to each activity. A PHA must submit documentation for the front-end civil rights review of each specific activity as required by the relevant sections of this Notice.

*B) Analysis of Transfers of Assistance*

Through the front-end review of transfers of assistance by FHEO, HUD seeks to assist the PHA in avoiding discrimination on the basis of race, color, national origin, religion, sex, disability or familial status. The front-end review of transfers of assistance will apply the site selection standards for existing/rehabilitated housing.<sup>59</sup> This review shall consider:

- (1) The accessibility of the proposed site for persons with disabilities;
- (2) The ability of the RAD conversion to remediate accessibility concerns;
- (3) Whether the transfer of assistance would result in assisted units being located in an area where the total percentage of minority persons is significantly higher than the total percentage of minority persons in the area of the original public housing site or in an area where the percentage of persons of a particular racial or ethnic minority is significantly higher than the percentage of that minority group in the area of the original public housing site.<sup>60</sup> For purposes of this analysis, HUD will examine the minority concentration of:
  - (a) the census tract of the original public housing site compared to the census tract of the proposed site; and
  - (b) an area comprised of the census tract of the original public housing site together with all adjacent census tracts compared to an area comprised of the census tract of the proposed site together with all adjacent census tracts.
- (4) Whether the site selection has the purpose or effect of:
  - (a) Excluding individuals from, denying them the benefits of, or subjecting them to discrimination under the RAD program or the applicable rental assistance program;
  - (b) Excluding qualified individuals with disabilities from or denying them the benefit of the RAD program or the applicable rental assistance program, or otherwise subjecting them to discrimination;
  - (c) Defeating or substantially impairing the accomplishment of the objectives of the RAD program or the applicable rental assistance program with respect to qualified individuals with disabilities; and

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<sup>59</sup> 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, paragraphs (a) through (d). The site selection standards for existing/rehabilitated housing do not apply the minority concentration test used for new construction found at 24 C.F.R. § 983.57(e)(3) and Appendix III of the RAD Notice, paragraph (e).

<sup>60</sup> While this review is not explicitly called out in 24 C.F.R. § 983.57(d) and Appendix III of the RAD Notice, it is derived from HUD's and the PHA's obligations to comply with civil rights laws and regulations, including those referenced in 24 C.F.R. § 983.57(b)(2) and Appendix III of the RAD Notice.



- (d) Excluding individuals with disabilities (including members of the public with disabilities), denying them benefits or subjecting them to discrimination.

Under the RAD Notice, there are other standards for review of a transfer of assistance which are not examined as part of the front-end civil rights review but are examined as part of the RAD Financing Plan review (e.g., criteria formulated for transfers under Section 8(bb) of the United States Housing Act of 1937 regarding neighborhoods with highly concentrated poverty). Identification of considerations for the front-end review do not preclude review by HUD of all standards referenced in the RAD Notice.

### **5.6. Front-End Civil Rights Review for RAD Transactions Involving Reduction in Number of Units, Changes in Bedroom Distribution of Units and Changes in Occupancy Requirements**

The RAD Notice allows PHAs to reduce the number of units, change the bedroom distribution of units, or change the occupancy of projects as part of their RAD conversion.<sup>61</sup> However, the RAD Notice also provides that such changes (including de minimis changes) must undergo a front-end civil rights review and receive approval from HUD prior to submission of the Financing Plan. The Checklist will require data for review along with an explanation, backed by sufficient evidence, of how the PHA determined that the proposed change will not result in discrimination on the basis of race, color, national origin, religion, sex, disability, familial status, actual or perceived sexual orientation, gender identity or marital status.<sup>62</sup>

#### *A) Review of Reductions in the Number of Units, Reductions or Increases in the Number of UFAS Accessible Units or Changes in Bedroom Distribution*

This Section describes the considerations relevant to a front-end review of reductions in units, changes in the number of UFAS accessible units or changes in bedroom distribution. Such changes must not be the result of an intentional effort to discriminate against members of a protected class. For example, reductions or changes, including reductions in UFAS accessible units or which would impede residents with disabilities from having live-in aides, that intended to exclude persons with disabilities would be unlawful discrimination because of a disability.

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<sup>61</sup> See Sections 1.4.A.4 and 1.4.A.10 of the RAD Notice.

<sup>62</sup> Reductions in the number of units, changes in the bedroom distribution of units, or changes in occupancy violate the Fair Housing Act (the Act) if they have a discriminatory effect on the basis of race, color, national origin, religion, sex, disability, or familial status. Unlawful housing discrimination may be established by a policy's or practice's discriminatory intent or by its discriminatory effect, even if not motivated by discriminatory intent, consistent with the standards outlined in 24 C.F.R. § 100.500. A policy or practice can have an unjustified discriminatory effect, even when the provider had no intent to discriminate. Under this standard, a facially-neutral policy or practice that has a discriminatory effect violates the Act if it is not supported by a legally sufficient justification. In addition, the policy or practice violates the Act if the housing developer or provider intentionally discriminates, including for example, by reducing the number of bedrooms with the intent of limiting families with children. Furthermore, the policy or practice may also violate the Act where it creates, increases, reinforces, or perpetuates segregated housing patterns because of race, color, religion, sex, handicap, familial status, or national origin. In addition, any changes must conform with the Equal Access rule requirement that determinations of eligibility for housing that is assisted by HUD or subject to a mortgage insured by the FHA shall be made in accordance with program eligibility requirements, and the housing must be made available, without regard to actual or perceived sexual orientation, gender identity or marital status. 24 C.F.R. § 5.105(a)(2).

Similarly, replacing larger units with smaller units so as to exclude families with children would be unlawful discrimination because of familial status.

Additionally, reductions in units or changes in bedroom distribution must not have an unjustified discriminatory effect on members of a protected class. For example, a reduction in units could have a discriminatory impact if it excludes members of a particular race or religion. Reductions or changes that have a disparate impact on a protected class are unlawful under the Fair Housing Act if they are not necessary to achieve a substantial, legitimate, nondiscriminatory interest of the developer or housing provider, or if such interest could be served by another practice that has a less discriminatory effect.

The RAD Notice allows for a de minimis reduction in units at Converting Projects, which includes both a small number of units as well as the reduction of certain units that have been vacant for 24 months prior to application, that are being or will be used for social service delivery, or efficiencies that will be reconfigured to one-bedroom units.<sup>63</sup> In addition, a PHA converting multiple properties can consolidate the de minimis reductions derived from multiple properties at a small number of sites. The RAD Notice also allows for changes in bedroom distribution. Such de minimis reductions are still subject to front end civil rights review and applicable fair housing and civil rights laws.

HUD shall conduct a front-end civil rights review if the plan for a Converting Project results in:

- A reduction in the number of dwelling units in any of the following categories: (i) units with two bedrooms, (ii) units with three bedrooms or (iii) units with four or more bedrooms.
- A reduction in the number of UFAS accessible units;
- An increase in the number of UFAS accessible units for persons with mobility impairments beyond 10% of the units in the Covered Project or 1 unit, whichever is greater.
- An increase in the number of UFAS accessible units for persons with vision and hearing impairments beyond 4% of the units in the Covered Project or 1 unit, whichever is greater.

When a Converting Project is subject to a front-end civil rights review under this subsection, the PHA shall submit to HUD the relevant part of the Checklist together with a justification which must demonstrate that the changes are not the result of discriminatory intent and will not have a discriminatory effect on members of protected classes, particularly families with children and individuals with disabilities. Relevant data for this analysis of the proposed change at the project may include the PHA's overall affordable housing stock, the demand for affordable housing in the market as evidenced by information such as the overall jurisdiction and regional demographic data available from the AFFH Data and Mapping Tool (e.g., both basic demographic and disproportionate housing needs data), the PHA's waiting list or a reliable market study of households seeking assisted housing, compared to the relative proportions of

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<sup>63</sup> See Section 1.4.A.4 of the RAD Notice.

units serving any particular household type in the proposed project, the PHA's total housing stock or all assisted housing in the area.

For any increase in UFAS units subject to front-end review, HUD will assess indicators of local need (see Section 5.7(B), below) and whether the change would operate to concentrate individuals with disabilities in a particular property or to exclude individuals with certain types of disabilities from a particular property.

*B) Review of Changes in Occupancy Type*

RAD conversions that result in the implementation of an admissions preference (e.g., residency preferences or restrictions) at the Covered Project that would alter the occupancy of the property (e.g., family units converting to elderly units, elderly/disabled units converting to elderly only units) are subject to a front-end civil rights review by HUD pursuant to the RAD Notice and Section 5.3(A). A PHA must demonstrate that the proposed change in occupancy type is consistent with the demand for affordable housing in its jurisdiction as demonstrated by factors such as the demographics of its current occupancy, the demographics of its waiting list or a market study. Such preferences, restrictions, or geographic residency preferences must be reflected in a PBRA project's Affirmative Fair Housing Marketing Plan (AFHMP) or, for a PBV project, the PHA's Administrative Plan.

## **5.7. Other Front-End Civil Rights Review for RAD Transactions**

*A) Conversions of Assistance in Which the Construction Schedule Indicates that Relocation is Likely to Exceed 12 Months.*

The front end civil rights review shall focus on whether the relocation will result in discrimination on the basis of race, color, national origin, religion, sex, disability, and familial status, based primarily, but not exclusively, on the data required in the Checklist.

*B) Conversions of Assistance Involving New Construction or Substantial Alteration, as those terms are defined by Section 504.*

While the PHA is responsible for compliance with all requirements described in Section 4, above and in this subsection, the front-end review will be conducted based on a review of the Checklist and shall include confirming the provision of any required accessible units and confirming the PHA is applying the appropriate accessibility standards. HUD will require the PHA to provide information regarding the provision of at least the minimum number of units accessible for persons with mobility impairments and units accessible for persons with hearing and vision impairments as required by applicable law (generally 5% of units accessible for persons with mobility impairments and an additional 2% of units accessible for persons with hearing and vision impairments). For purposes of establishing an upper threshold of accessible units below which RAD front-end review will not be required, HUD will accept that up to 10% of units accessible for persons with mobility impairments and up to 4% of units accessible for persons with hearing and vision impairments is consistent with local need, without further review, absent information to the contrary. HUD will consider a PHA's request for higher percentages based, to HUD's satisfaction, on reliable indicators of local need, such as census data or other available current data. HUD is available to assist PHAs in determining appropriate indicators of local

need for units with accessible features. The RAD conversion scope of work submitted with the Financing Plan must reflect the construction or retrofitting of residential units and public and common use areas to comply with all applicable accessibility requirements.

*C) Remedial Agreements and Orders.*

Front-end review in situations where the Converting Project or PHA is subject to enforcement actions or binding voluntary compliance agreements, settlement agreements, conciliation agreements, or consent decrees or orders of the nature described in Sections 5.3(A)(8) and 5.3(A)(9) shall be conducted on a case-by-case basis as appropriate to the specific situation.

**5.8. Affirmative Fair Housing Marketing Plan (AFHMP) Requirements for Projects Converting to PBRA Assistance**

For all projects converting to PBRA assistance, a PHA or Project Owner must complete form HUD-935.2A, the Affirmative Fair Housing Marketing Plan (AFHMP) - Multifamily Housing, and submit it to HUD for approval with the RAD Financing Plan.<sup>64</sup> Affirmative Fair Housing Marketing requirements are designed to achieve a condition in which individuals of similar income levels in the same housing market area have similar housing choices available to them regardless of their race, color, national origin, religion, sex, disability, or familial status.<sup>65</sup> They are also a means to carry out the mandate of Section 808(e)(5) of the Fair Housing Act that HUD administer its programs and activities in a manner to affirmatively further fair housing. These requirements mandate that PHAs or Project Owners identify groups that are least likely to apply for upcoming housing opportunities and to implement special marketing and outreach activities to ensure that these groups are aware of these opportunities.

The AFHMP must be submitted to HUD with the Financing Plan. A separate AFHMP is required for each distinct PBRA HAP contract. The PHA must submit an AFHMP even if the project has an existing waiting list and is not accepting new applicants. The PHA or Project Owner should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

When submitting an AFHMP for HUD approval, the PHA or Project Owner must ensure that the occupancy designation and any residency preferences are consistent with the PHA Plan or Significant Amendment to the PHA Plan, that such designation and preferences are consistent with the Checklist submitted to HUD and that the AFHMP includes affirmative marketing

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<sup>64</sup> The most recent version of the AFHMP is HUD Form 935.2A, OMB Approval Number 2529-0013. *See* 24 C.F.R. § 880.601(a)(2) and 24 C.F.R. § 200.615; *see also* Section 10.8 of the Multifamily Accelerated Processing (MAP) Guide. The PHA or its management agent should consult the instructions in the form HUD 935.2A and HUD's Implementing Affirmative Fair Housing Marketing Requirements Handbook (HUD Handbook 8025.1) for guidance on completing the AFHMP and carrying out an affirmative marketing program. The Handbook provides a detailed resource on the content of the AFHMP, which includes marketing activities, residency preferences, and staff training.

<sup>65</sup> *See* 24 C.F.R. § 200.610.

activities that are consistent with its occupancy designation and the populations identified as least likely to apply. Any subsequent changes to occupancy designation or residency preferences shall be proposed, submitted and reviewed in accordance with standard PBRA requirements. If a PHA or Project Owner plans to adopt any local or residency preferences, the Project Owner must submit its Tenant Selection Plan along with the AFHMP (see HUD Handbook 4350.3, page 4-4).

The Multifamily Housing Office of Asset Management and Portfolio Oversight and the Office of Fair Housing and Equal Opportunity (“FHEO”) review the AFHMP. FHEO issues HUD’s official letter of approval or disapproval. Disapproval letters will specify the reason a plan was rejected and the revisions required. The PHA or Project Owner must make the required changes and resubmit a corrected plan to HUD for approval.

The PBRA contract becomes effective on the first day of a month, following closing. Approval of the AFHMP is not a condition to closing of the RAD conversion. When the project is preparing to accept applications, it must follow its approved AFHMP to ensure that groups least likely to apply are aware of the housing opportunities. The Project Owner is responsible for ensuring that the AFHMP is in place throughout the life of any FHA mortgage or PBRA contract. The Project Owner may not market or lease any unit not occupied by a household exercising its right to remain in or return to the Covered Project prior to approval of the AFHMP. Marketing or leasing includes the solicitation, distribution or acceptance of applications or development of a waiting list.

## **SECTION 6. RELOCATION REQUIREMENTS**

In some cases, as explained in this Section, the activities associated with the RAD transaction may require the relocation of residents. In the event of acquisition, demolition, construction or rehabilitation activities performed in connection with a RAD conversion, the PHA and/or Project Owner<sup>66</sup> should plan such activities to reasonably minimize any disruption to residents’ lives, to ensure that residents are not exposed to unsafe living conditions and to comply with applicable relocation, fair housing and civil rights requirements. As discussed in Section 6.1, below, a written relocation plan is required in some circumstances and strongly encouraged for any conversion resulting in resident moves or relocation. Further, the obligations due to relocating residents under RAD are broader than URA relocation assistance and payments and RAD specifies requirements which are more protective of residents than standard URA requirements, including additional notices (see Section 6.6) and a right to return (see Section 6.2). This Notice requires that certain information be provided to all households, beginning prior to submission of the RAD application.

Any resident who moves as a direct result of acquisition, rehabilitation or demolition for an activity or series of activities associated with a RAD conversion may, depending on the circumstances and length of time of the relocation, be eligible for relocation assistance and payments under the URA. Additionally, Section 104(d) relocation and one-for-one replacement

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<sup>66</sup> Under the URA, the term “displacing agency” refers to the agency or person that carries out a program or project which will cause a resident to become a displaced person. Projects vary and, for any specific task described in this Notice, the displacing agency may be either the PHA or the Project Owner, as determined by the allocation of roles and responsibilities between the PHA and Project Owner.

housing requirements may also apply when CDBG- or HOME-funds are used in connection with a RAD conversion. The applicability of the URA or Section 104(d) to RAD conversions is fact-specific, which must be determined in accordance with the applicable URA and Section 104(d) regulations.<sup>67</sup>

Eligibility for specific protections under this Notice applies to any person residing in a Converting Project who is legally on the public housing lease, has submitted an application to be added to an existing lease, or is otherwise in lawful occupancy at the time of the issuance of the CHAP and at any time thereafter until conversion of assistance under RAD. All such residents of a Converting Project have a right to return and are eligible for relocation protections and assistance as provided by this Notice. The eligibility criteria set forth in this paragraph apply to the protections under this Notice regardless of whether residents or household members meet the statutory and regulatory requirements for eligibility under URA.<sup>68</sup>

### **6.1. Planning**

If there is a possibility that residents will be relocated as a result of acquisition, demolition, or rehabilitation for a Converting Project, PHAs must undertake a planning process in conformance with the URA statutory and regulatory requirements in order to minimize the adverse impact of relocation (*see* 49 § C.F.R. 24.205). PHAs must also ensure that their relocation planning is conducted in compliance with applicable fair housing and civil rights requirements.

The PHA shall prepare a written relocation plan if the RAD conversion involves permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year. While a written relocation plan is not required for temporary relocation lasting one year or less, HUD strongly encourages PHAs, in consultation with any applicable Project Owners, to prepare a written relocation plan for all RAD conversions to establish their relocation process clearly and in sufficient detail to permit consistent implementation of the relocation process and accurate communication to the residents. Appendix II contains recommended elements of a relocation plan.

During the planning stages of a RAD transaction and based on the results of this planning process, a PHA must submit applicable portions of the Checklist described in Section 5.3(B) to HUD, together with any required backup documentation, as early as possible once the information covered in the applicable part is known.<sup>69</sup> All parts of the Checklist must be submitted to HUD prior to submission of the Financing Plan. The Checklist will allow HUD to assist the PHA to comply, and to evaluate the PHA's compliance, with relocation requirements, including civil rights requirements related to relocation.

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<sup>67</sup> 42 U.S.C. § 4601 *et seq.*, 42 U.S.C. § 5304(d), and their implementing regulations at 49 C.F.R Part 24 and 24 C.F.R. Part 42 subpart C.

<sup>68</sup> A nonexclusive listing of persons who do not qualify as displaced persons under URA is at 49 C.F.R. 24.2(a)(9)(ii). See also, Paragraph 1-4(J) of HUD Handbook 1378. See Section 6.5 of this Notice for discussion of the date of "initiation of negotiations."

<sup>69</sup> The Checklist refers to the existing FHEO Accessibility and Relocation Checklist until a revised Checklist is approved for use pursuant to the Paperwork Reduction Act.

The following presents a general sequencing of relocation planning activities within the RAD conversion process for informational and planning purposes only. Specific requirements are set forth in the provisions of this Notice.

Stage	Activities
1. Prior to submission of RAD application	<ul style="list-style-type: none"> <li>• Determine potential need for relocation in connection with proposed conversion plans.</li> <li>• Meet with residents to discuss proposed conversion plans, communicate right to return, and solicit feedback.</li> <li>• Provide the <i>RAD Information Notice</i> (RIN) to residents as described in Section 6.6(A) of this Notice.</li> </ul>
2. After submission of RAD application	<ul style="list-style-type: none"> <li>• Assess the need for relocation planning in connection with proposed conversion plans. Determine if technical assistance would be beneficial to ensuring compliance with relocation requirements.</li> <li>• Survey residents to inform relocation planning and relocation process.</li> <li>• Develop a relocation plan (see Appendix II for recommended content).</li> <li>• Prepare Significant Amendment to PHA Plan and engage with the Resident Advisory Board, residents and the public regarding Plan amendment.<sup>70</sup></li> </ul>
3. Following issuance of the CHAP, or earlier if warranted	<ul style="list-style-type: none"> <li>• Provide the <i>General Information Notice</i> (GIN) to residents when the project involves acquisition, rehabilitation, or demolition as described in Section 6.6(B) of this Notice and relocation may be required.</li> </ul>
4. While preparing Financing Plan	<ul style="list-style-type: none"> <li>• Discuss the outlines of the conversion plans and their impact on relocation with the HUD transaction manager.</li> <li>• Refine the plan for relocation and integrate the construction schedule into the relocation strategy; seek to minimize off-site or disruptive relocation activities.</li> <li>• Identify relocation housing options .</li> <li>• Budget for relocation expenses and for compliance with accessibility requirements.</li> <li>• Submit the Checklist and, where applicable, the relocation plan.</li> <li>• If the conversion involves acquisition, at the discretion of the Project Owner issue Notice of Intent to Acquire (NOIA).</li> <li>• If a NOIA is issued, at the discretion of the Project Owner provide residents with appropriate relocation notices as</li> </ul>

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<sup>70</sup> Alternatively, the PHA may submit a new PHA Five-Year or Annual Plan, especially if it is on schedule to do so. Under any scenario, the PHA must consult with the Resident Advisory Board and undertake the community participation process.

Stage	Activities
	described in Section 6.6(C) through 6.6(E) of this Notice at this time.
5. From RAD Conversion Commitment (RCC) to Closing	<ul style="list-style-type: none"> <li>• Meet with residents to describe approved conversion plans and discuss required relocation.</li> <li>• The effective date of the RCC marks the date of “Initiation of Negotiations” (ION), as defined in the URA (49 § C.F.R. 24.2(a)(15)).</li> <li>• If no NOIA was provided while preparing the Financing Plan, provide residents with appropriate relocation notices as described in Section 6.6(C) through 6.6(E) of this Notice.</li> <li>• Resident relocation may begin following the effective date of the RCC, subject to applicable notice requirements.</li> </ul>
6. Post-Closing	<ul style="list-style-type: none"> <li>• Ongoing implementation of relocation</li> <li>• Notify the residents regarding return to the Covered Project as described in Section 6.6(F) of this Notice</li> <li>• Implementation of the residents’ right to return</li> </ul>

## 6.2. Resident Right to Return

Any public housing or Section 8 assisted resident that may need to be relocated temporarily to facilitate rehabilitation or construction has a right to return to an assisted unit at the Covered Project once rehabilitation or construction is complete.<sup>71</sup> Permanent involuntary displacement of public housing or Section 8 assisted residents may not occur as a result of a project’s conversion of assistance. The Project Owner satisfies the RAD right to return to a Covered Project if the Project Owner offers the resident household either: a) a unit in the Covered Project in which the household is not under-housed; or b) a unit in the Covered Project which provides the same major features as the resident’s unit in the Converting Project prior to the implementation of the RAD conversion. In the case of a transfer of assistance to a new site, residents of the Converting Project have the right to reside in an assisted unit meeting the requirements set forth in this paragraph at the Covered Project (the new site) once the Covered Project is ready for occupancy in accordance with applicable PBV or PBRA requirements.

If proposed plans for a Converting Project would preclude a resident from returning to the Covered Project, the resident must be given an opportunity to comment and/or object to such plans. Examples of project plans that may preclude a resident from returning to the Covered Project include, but are not limited to:

- Changes in bedroom distribution which decrease the size of units such that the resident would be under-housed;<sup>72</sup>

<sup>71</sup> The right to return is not a right to any specific unit in the Covered Project. Tenancies other than public housing or Section 8 assisted residents (such as commercial tenants) do not hold a right to return and are subject to standard relocation requirements applicable to such tenants under the URA.

<sup>72</sup> See the RAD Notice for a description of the procedures that must be undertaken if a resident is over-housed.



- Where a) the PHA is reducing the number of assisted units at a property (if authorized to do so under Section 1.5.B of the RAD Notice) and b) the resident cannot be accommodated in the remaining assisted units;
- The imposition of income eligibility requirements, such as those associated with LIHTC or other program financing, under which the current resident may not be eligible;<sup>73</sup> and
- Failure to provide reasonable accommodation to an individual with disabilities, in violation of applicable law, which reasonable accommodation may include installation of accessibility features that are needed by the individual with disabilities.<sup>74</sup>

If the resident who would be precluded from returning to the Covered Project objects to such plans, the PHA must alter the project plans to accommodate the resident's right to return to the Covered Project.

If the resident who would be precluded from returning to the Covered Project prefers to voluntarily and permanently relocate rather than object to the project plans, the PHA must secure informed, written consent to a voluntary permanent relocation in lieu of returning to the Covered Project and must otherwise comply with all the provisions of Section 6.10, below, regarding alternative housing options. The PHA cannot employ any tactics to pressure residents into relinquishing their right to return or accepting alternative housing options. A PHA may not terminate a resident's lease if the PHA fails to obtain the resident's consent and the resident seeks to exercise the right to return.

In the case of a multi-phase transaction, the resident has a right to return to the Covered Project or to other converted phases of the property which have converted and are available for occupancy at the time the resident is eligible to exercise the right to return. A relocated resident should get the benefit of improvements facilitated by the resident's relocation and conversion and completion of future phases cannot be assured. In most cases, this means that the resident's right to return must be accommodated within the Covered Project associated with resident's original unit. However, in those cases where improvements to multiple phases of a site are occurring simultaneously, the PHA or Project Owner may treat multiple Covered Projects on the same site as one for purposes of the right to return. If the PHA or Project Owner seeks to have the resident exercise the right of return at a future phase, the PHA or Project Owner would need to secure the resident's consent to such plan as an alternative housing option pursuant to Section 6.10, below.

In implementing the right of return, the Project Owner shall comply with all applicable fair housing laws and implementing regulations, including, but not limited to, the Fair Housing Act,

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<sup>73</sup> In these cases, a PHA may elect to exclude some units from the applicable financing program, for example, claiming LIHTC for a subset of the units and not claiming tax credits in connection with the units occupied by households over the LIHTC maximum eligibility of 60% of AMI.

<sup>74</sup> Refer to the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Reasonable Modifications Under the Fair Housing Act (March 5, 2008), at [http://www.hud.gov/offices/fheo/disabilities/reasonable\\_modifications\\_mar08.pdf](http://www.hud.gov/offices/fheo/disabilities/reasonable_modifications_mar08.pdf) for additional detail regarding applicable standards for reasonable accommodations and accessibility features which must be provided. If the resident has paid for installation of accessibility features in the resident's prior unit, the PHA or Project Owner shall pay for the installation of comparable features in the new unit. Violations of law may also result in other sanctions.

Title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and Titles II and III of the Americans with Disabilities Act.

### **6.3. Admissions and Continued Occupancy Requirements**

Resident households may not be denied relocation housing or the right to return based on rescreening, income eligibility, or income targeting. PHAs may only offer housing options with screening, income eligibility or income targeting requirements if the impacted residents meet the admission and occupancy policies applicable to such housing. However, whether or not in a temporary relocation situation, the household remains subject to the applicable program policies regarding continued occupancy of an assisted unit by an incumbent resident of the unit.

### **6.4. Types of Moves and Relocation**

Any time project plans require a resident to move from their current unit, the resident is eligible for assistance as described in this Notice. Assistance may vary depending on the options provided to residents, whether the relocation is temporary or permanent and, if applicable, the length of time the resident is in temporary accommodations.<sup>75</sup> In all circumstances, the move or relocation must be in compliance with applicable requirements of this Notice and consistent with applicable fair housing and civil rights requirements. Each type of move is discussed below.

#### *A) Moves within the same building or complex of buildings<sup>76</sup>*

Temporary or permanent moves within the same building or complex of buildings may be appropriate given the extent of work to be completed to permit phasing of rehabilitation or construction. Moves within the same building or complex of buildings are not considered relocation under RAD and a tenant generally does not become displaced under the URA. Whether permanent (i.e., the tenant will move to and remain in an alternative unit) or temporary (i.e., the tenant will move to another unit and return to their original unit), the PHA or Project Owner must reimburse residents for all reasonable out-of-pocket expenses incurred in connection with any move and all other terms and conditions of the move(s) must be reasonable.<sup>77</sup> The final move must be to a unit which satisfies the right to return requirements specified in Section 6.2 of this Notice.

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<sup>75</sup> PHAs should note that the definitions of “permanent” vary between the URA and RAD. For example, “permanent displacement” under the URA includes moves from the original building or complex of buildings lasting more than one year. The RAD Notice, meanwhile, considers “permanent relocation” to be separation from the RAD-assisted unit upon completion of the conversion and any associated rehabilitation and construction. The duration of a temporary move may exceed one year. In the case of a transfer of assistance, it is not permanent relocation under RAD when the resident must move from the original complex of buildings to the destination site in order to retain occupancy of the RAD-assisted unit.

<sup>76</sup> An example of relocation within the same building or complex of buildings would be if one floor of a multi-story building is vacant, and the PHA is moving residents from another floor to the vacant units.

<sup>77</sup> Failure to reimburse residents for moving or other out-of-pocket expenses and any other terms and conditions of the move which may be unreasonable may result in the resident becoming a displaced person under the URA if the resident subsequently moves from the property.

*B) Temporary relocation lasting one year or less*

If a resident is required to relocate temporarily, to a unit not in the same building or complex of buildings, for a period not expected to exceed one year in connection with the RAD conversion, the resident's temporarily occupied housing must be decent, safe, and sanitary and the resident must be reimbursed for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation. These expenses include, but are not limited to, moving expenses, increased housing costs (e.g., rent and utilities), meals if the temporary housing lacks cooking facilities (e.g., during a short hotel stay, whether or not on an emergency basis) and other applicable expenses.<sup>78</sup>

*C) Temporary relocation initially expected to last one year or less, but which extends beyond one year*

In the event that a resident has been temporarily relocated, to a unit not in the same building or complex of buildings, for a period which was anticipated to last one year or less but the temporary relocation in fact exceeds one year, the resident qualifies as a "displaced person" under the URA and as a result immediately becomes eligible for all permanent relocation assistance and payments as a "displaced person" under the URA, including notice pursuant to Section 6.6(E). This assistance would be in addition to any assistance the person has already received for temporary relocation, and may not be reduced by the amount of any temporary relocation assistance.

In such event, the PHA or Project Owner shall offer the resident the opportunity to choose to voluntarily permanently relocate with the offered URA assistance or to choose to remain temporarily relocated based on updated information from the PHA or Project Owner about when they can return to the completed RAD unit. The PHA or Project Owner must present this opportunity to the resident when the temporary relocation extends beyond one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration. In presenting such opportunity, the PHA or Project Owner must inform the resident in writing that his or her acceptance of voluntary permanent relocation, with the associated assistance, would terminate the resident's right to return to the Covered Project. The PHA or Project Owner must provide the resident with at least 30 days to decide whether to remain in temporary relocation status or to voluntarily relocate permanently.

*D) Temporary relocation anticipated to last more than one year*

When the PHA anticipates that the temporary relocation, to a unit not in the same building or complex of buildings, will last more than one year, but the resident is retaining the resident's right to return to the Covered Project, the resident is considered temporarily relocated under RAD and is eligible to receive applicable temporary relocation assistance and payments. Under the URA, the resident becomes eligible to receive applicable relocation assistance and payments as a "displaced person" when the temporary relocation period exceeds one year and each time thereafter that the temporary relocation extends beyond the previously anticipated duration, at

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<sup>78</sup> HUD Handbook 1378, Chapter 2, Section 2-7 governs activities subject to URA requirements and informs, but is not binding upon, any RAD activities not governed by the URA. PHAs may also refer to HUD Form 40030.

which time the PHA or Project Owner shall offer the resident the opportunity to choose to voluntarily permanently relocate or to remain temporarily relocated, as described in Section 6.4(C), above.

In order to allow residents to make the election earlier than required under the URA (thereby avoiding a year in temporary relocation housing prior to electing voluntary permanent relocation), if the PHA or Project Owner anticipates that temporary relocation will last more than one year, the PHA or Project Owner shall provide the resident with an initial option to (a) be temporarily relocated, retain the right to return to the Covered Project when a unit becomes available and receive assistance, including temporary housing and reimbursement for all reasonable out-of-pocket expenses associated with the temporary relocation, or (b) accept RAD voluntary permanent relocation assistance and payments equivalent to what a “displaced person” would receive under the URA. The PHA or Project Owner must inform the resident in writing that his or her acceptance of voluntary permanent relocation, with the associated assistance, would terminate the resident’s right to return to the Covered Project. The PHA or Project Owner must provide the resident with at least 30 days to decide whether to remain in temporary relocation status or to voluntarily relocate permanently.

*E) Permanent moves in connection with a transfer of assistance*

In cases solely involving a transfer of assistance to a new site, resident relocation from the Converting Project to the Covered Project is not, by itself, generally considered involuntary permanent relocation under RAD. However, the URA and/or Section 104(d) is likely to apply in most cases. In cases of a transfer of assistance to a new site where it has also been determined that the URA and/or Section 104(d) apply to the transfer of assistance, residents may be eligible for all permanent relocation assistance and payments for eligible displaced persons under the URA and/or Section 104(d). If the URA applies to a move of this type, the PHA or Project Owner must make available at least one, and when possible, three or more comparable replacement dwellings pursuant to 49 C.F.R. § 24.204(a). However, provided the transfer of assistance unit meets the URA definition of a comparable replacement dwelling pursuant to 49 C.F.R. § 24.2(a)(6), that unit could in fact represent the most comparable replacement dwelling as determined by the agency for purposes of calculating a replacement housing payment, if any, under 49 C.F.R. § 24.402.

Whether or not the URA and/or Section 104(d) apply, under RAD the residents are entitled to relocation assistance and payments, including counseling in preparation for the relocation, written notices of the relocation (including a 90-day RAD Notice of Relocation), and reimbursement for all reasonable out-of-pocket expenses, including moving expenses, incurred in connection with the move. It should be noted that the RAD relocation assistance and payments provided to transferring residents in this paragraph differ from those required under the URA and/or Section 104(d) as described above. Where both frameworks apply, the residents must receive the more extensive protections offered under either framework.

If HUD determines that the distance from the Converting Project to the site of the Covered Project is significant and the resident could not reasonably be required to move to the new site, then HUD will require the PHA to adjust project plans to accommodate the resident in an assisted unit (e.g., a public housing unit, some other project-based Section 8 unit or a market unit

with a housing choice voucher) within a reasonable distance of the site of the Converting Project. HUD will evaluate whether this requirement applies on a case by case basis, considering whether the distance would impose a significant burden on residents' access to existing employment, transportation options, schooling or other critical services. Accommodating the resident may also be satisfied by the resident's consent to an alternative housing option pursuant to Section 6.10. The requirement set forth in this paragraph is in addition to all protections, including, for example, the offer of comparable replacement dwellings, which are required in all instances where a transfer of assistance is subject to the URA and/or Section 104(d).

*F) Voluntary permanent relocation*

A resident may elect to relinquish their right of return and consent to voluntary permanent relocation pursuant to an alternative housing option offered and accepted according to the procedures described in Section 6.10, which Section specifies protections to ensure the resident's decision is fully informed. By selecting voluntary permanent relocation, the resident is electing to receive RAD permanent relocation assistance and payments which are equivalent to the relocation payments and assistance required to be provided to a "displaced person" pursuant to the regulations implementing the URA.

## **6.5. Initiation of Negotiations (ION) Date**

Eligibility for URA relocation assistance is effective on the date of initiation of negotiations (ION) (49 C.F.R. § 24.2(a)(15)). For Converting Projects, the ION date is the effective date of the RCC. The ION date is also typically the date when PHAs can begin to issue RAD Notices of Relocation (except in the case of acquisitions when the PHA can issue a Notice of Intent to Acquire and RAD Notices of Relocation prior to the ION date). Any person who is in lawful occupancy on the ION date is presumed to be entitled to relocation payments and other assistance.

PHAs and Project Owners should note that prior to the ION date, a resident may be eligible as a displaced person for permanent relocation assistance and payments under the URA if HUD determines, after analyzing the facts, that the resident's move was a direct result of the project. However, resident moves taken contrary to specific instructions from the PHA or Project Owner (for example, contrary to instructions not to move if contained in a General Information Notice) are generally not eligible as a displaced person under the URA.

## **6.6. Resident Relocation Notification (Notices)**

PHAs and Project Owners are encouraged to communicate regularly with the residents regarding project plans and, if applicable, the resulting plans for relocation. When residents may be relocated for any time period (including, without limitation, a move in connection with a transfer of assistance), written notice must be provided to the resident heads of households, including the notices listed below as applicable.<sup>79</sup> PHAs and Project Owners are also encouraged to provide

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<sup>79</sup> The notices required under Sections 6.6(B) through 6.6(E) must be delivered in accordance with URA resident notification requirements, including the requirement that the notice be personally served or delivered by certified or registered first class mail return receipt requested. All notices must be delivered to each household (i.e., posting in

additional relocation notices and updates for the residents' benefit as appropriate for the specific situation.

To ensure that all residents understand their rights and responsibilities and the assistance available to them, consistent with URA requirements at 49 C.F.R. § 24.5 and civil rights requirements, PHAs and Project Owners must ensure effective communication with individuals with disabilities, including through the provision of appropriate auxiliary aids and services, such as interpreters and alternative format materials. Similarly, PHAs and Project Owners are required to take reasonable steps to ensure meaningful access for LEP persons in written and oral materials. Each notice shall indicate the name and telephone number of a person to contact with questions or for other needed help and shall include the number for the telecommunication device for the deaf (TDD) or other appropriate communication device, if applicable, pursuant to 24 C.F.R. §8.6(a)(2).

The purpose of these notifications is to ensure that residents are informed of their potential rights and, if they are to be relocated, of the relocation assistance available to them. Two initial notices launch this effort and provide critical information regarding residents' rights. The first, the RAD Information Notice, is to be provided at the very beginning of the RAD conversion planning process in order to ensure residents understand their rights, to provide basic program information and to facilitate residents' engagement with the PHA regarding project plans. The GIN, meanwhile, provides information specifically related to protections the URA provides to impacted residents. Subsequent notices provide more detailed information regarding relocation activities specific to the household, including tailored information regarding eligibility and timelines for relocation.

PHAs should note that a resident move undertaken as a direct result of the project may be eligible to receive relocation assistance and payments under the URA even though the PHA has not yet issued notices to them. Sample notices which may be used as-is or modified to fit the peculiarities of each situation are provided on the RAD website at [www.hud.gov/rad](http://www.hud.gov/rad).

#### *A) RAD Information Notice*

The RAD Information Notice is to be provided to residents at the very beginning of the RAD conversion planning process in order to convey general written information on potential project plans and residents' basic rights under RAD, and to facilitate residents' engagement with the PHA regarding the proposed RAD conversion. The PHA shall provide a RAD Information Notice to all residents of a Converting Project prior to the first of the two meetings with residents required by the RAD Notice, Section 1.8.2, and before submitting a RAD Application. This RAD Information Notice shall be provided without regard to whether the PHA anticipates any relocation of residents in connection with the RAD conversion. The RAD Information Notice must do the following:

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common areas is insufficient) and methods of delivery (e.g., certified mail, U.S. mail, or hand delivery) must be documented in the PHA's or Project Owner's files.

- Provide a general description of the conversion transaction (e.g., the Converting Project, whether the PHA anticipates any new construction or transfer of assistance, whether the PHA anticipates partnering with a developer or other entity to implement the transaction);
- Inform the resident that the early conceptual plans are likely to change as the PHA gathers more information, including, among other items, resident opinions, analysis of the capital needs of the property and financing options;
- Inform the resident that the household has a right to remain in the unit or, if any relocation is required, a right to return to an assisted unit in the Covered Project (which may be at the new site in the case of a transfer of assistance);
- Inform the resident that they will not be subject to any rescreening as a result of the conversion;
- Inform the resident that the household cannot be required to move permanently without the resident's consent, except in the case of a transfer of assistance when the resident may be required to move a reasonable distance, as determined by HUD, in order to follow the assisted unit;
- Inform the resident that if any relocation is involved in the transaction, the resident is entitled to relocation protections under the requirements of the RAD program and, in some circumstances, the requirements of the URA, which protections may include advance written notice of any move, advisory services, payment(s) and other assistance as applicable to the situation;
- Inform the resident that any resident-initiated move from the Converting Project could put any future relocation payment(s) and assistance at risk and instruct the resident not to move from the Converting Project; and
- Inform the resident that the RAD transaction will be completed consistent with fair housing and civil rights requirements, and provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

*B) General Information Notice (49 C.F.R. § 24.203(a))*

The purpose of the General Information Notice (GIN) is to provide information about URA protections to individuals who may be displaced as a result of federally-assisted projects involving acquisition, rehabilitation or demolition. A GIN provides a general description of the project, the activities planned, and the relocation assistance that may become available.

A GIN shall be provided to any person scheduled to be displaced *as soon as feasible* based on the facts of the situation. In certain instances, such as when the PHA knows that a project will involve acquisition, rehabilitation or demolition, “as soon as feasible” may be simultaneous with issuance of the RAD Information Notice. For any RAD conversion involving acquisition, rehabilitation or demolition, “as soon as feasible” shall be no later than 30 days following the issuance of the CHAP. In instances where acquisition, rehabilitation or demolition is not anticipated at the time of the CHAP but project plans change to include such activities, pursuant to this Notice the PHA shall provide the GIN as soon as feasible following the change in project plans.

For RAD, the GIN must do at least the following:

- Inform the resident that he or she may be displaced for the project and generally describe the relocation payment(s) for which the resident may be eligible, the basic conditions of eligibility, and the procedures for obtaining the payment(s);
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she will be given reasonable relocation advisory services, including referrals to replacement properties, help in filing payment claims, and other necessary assistance to help the displaced resident successfully relocate;
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she will not be required to move without 90 days advance written notice;
- Inform the resident that, if he or she qualifies for relocation assistance as a displaced person under the URA, he or she cannot be required to move permanently unless at least one comparable replacement dwelling has been made available;
- Inform the resident that any person who is an alien not lawfully present in the United States is ineligible for relocation advisory services and relocation payments, unless such ineligibility would result in exceptional and extremely unusual hardship to a qualifying spouse, parent, or child (see 49 C.F.R. § 24.208(h) for additional information);
- Describe the resident's right to appeal the PHA's determination as to a resident's eligibility for URA assistance; and
- Inform the resident that the RAD transaction will be completed consistent with fair housing and civil rights requirements, and provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

Because of the potential confusion caused by evolving policy directions in the RAD program regarding delivery of the GIN, for actions taken prior to the issuance of this Notice, HUD will consider the facts and circumstances of each conversion, with emphasis on the underlying URA requirements, in monitoring and enforcing a PHA's compliance with this requirement.

*C) Notice of Intent to Acquire (49 C.F.R. § 24.203(d))*

For conversions involving acquisition, the Project Owner (the "acquiring agency") may provide to residents of the Converting Project a Notice of Intent to Acquire (NOIA).<sup>80</sup> The NOIA may be provided no earlier than 90 days prior to the PHA's reasonable estimate of the date of submission of a complete Financing Plan. While eligibility for URA relocation assistance is generally effective on the effective date of the RCC (the ION date), a prior issuance of a NOIA establishes a resident's eligibility for relocation assistance and payments on the date of issuance of the NOIA and prior to the ION date.

*D) RAD Notice of Relocation*

If a resident will be relocated to facilitate the RAD conversion, the PHA shall provide written notice of such relocation by means of a RAD Notice of Relocation. The RAD Notice of

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<sup>80</sup> Acquisition includes a new ownership entity's purchase of the Covered Project from the PHA, such as a purchase by a single purpose entity, an affiliate or a low-income housing tax credit ownership entity.



Relocation may not be issued until: 1) the effective date of the RCC (the ION date) if the conversion does not involve acquisition; or 2) the earlier of the issuance of the Notice of Intent to Acquire (see Section 6.6(C)) or the effective date of the RCC (the ION date) if the conversion involves acquisition. Prior to issuance of the RAD Notice of Relocation, PHAs and Project Owners should meet with each resident household to provide preliminary relocation advisory services and to determine their needs and preferences.<sup>81</sup>

A RAD Notice of Relocation is not required for residents who will not be relocated. As a best practice, PHAs or Project Owners should notify residents that they are not being relocated once that determination has been made if they were previously informed by the GIN and/or by other methods that relocation was a possibility.<sup>82</sup>

A RAD Notice of Relocation shall provide either: 1) 30-days' notice to residents who will be relocated for twelve months or less; or 2) 90-days' notice to residents who will be relocated for more than twelve months.<sup>83</sup> The RAD Notice of Relocation must conform to the following requirements:

- (1) The notice must state the anticipated duration of the resident's relocation.
- (2) The notice must specify which entity (the PHA or the Project Owner) is primarily responsible for management of the resident's relocation and for compliance with the relocation obligations during different periods of time (i.e., before vs. after Closing).
- (3) For residents who will be relocated for twelve months or less:
  - The PHA or Project Owner must provide this notice a minimum of 30 days prior to relocation.<sup>84</sup> PHAs or Project Owners may deem it appropriate to provide longer notice periods for persons who will be temporarily relocated

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<sup>81</sup> PHAs and Project Owners should note the URA relocation advisory services requirement for personal interviews. See Section 6.7 of this Notice. In sequencing the RAD Notice of Relocation, PHAs and Project Owners wishing to offer alternative housing options pursuant to Section 6.10 should also note the additional complexity in the timeline of notices. Pursuant to Section 6.10(D), the resident can consent to an alternative housing option only after issuance of the NOIA or the effective date of the RCC and 30 days after presentation of the alternative housing options. In some cases, for example, when the resident would not otherwise be relocated for over twelve months, the RAD Notice of Relocation must include both the information described in Section 6.6(D)(3) and the information in Section 6.6(D)(4). The PHA or Project Owner should consider discussing the alternative housing options prior to issuing the RAD Notice of Relocation so that the RAD Notice of Relocation can be tailored to the resident's situation.

<sup>82</sup> The RAD program does not require a "notice of non-displacement," which HUD relocation policy generally uses for this purpose.

<sup>83</sup> The 90-day notice is required for residents relocated for more than twelve months, whether or not they intend to return to the Covered Project and whether or not they are eligible for assistance and payments as a displaced person under URA. Recipients of the 90-day notice would include those residents who have voluntarily accepted a permanent relocation option as well as those residents who are relocated within the same building or complex of buildings.

<sup>84</sup> Note that residents may elect to move to the relocation housing before the 30 days have elapsed. However, a PHA may not require a resident to move prior to this time.

- for an extended period of time (over 6 months), or if necessary due to personal needs or circumstances.
- The notice must explain that the PHA or Project Owner will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with any temporary move (including, but not limited to, increased housing costs and moving costs).
  - The notice must explain the reasonable terms and conditions under which the resident may exercise the right to return to lease and occupy a unit in the Covered Project.
- (4) For residents who will be relocated for more than twelve months, including for residents who may wish to voluntarily accept a permanent relocation option:
- The PHA or Project Owner must provide this notice a minimum of 90 days prior to relocation of residents.<sup>85</sup>
  - The notice must offer the choice to be temporarily relocated, thereby preserving the resident's right to return, or the choice to be voluntarily permanently relocated pursuant to the procedures set forth in Section 6.10, together with guidance that the resident has at least thirty (30) days to consider the choice.
  - For residents who voluntarily elect to be permanently relocated, the 90-day notice period may only begin once the PHA or Project Owner has made available at least one comparable replacement dwelling consistent with 49 C.F.R. § 24.204(a).<sup>86</sup>
  - The notice must describe the available relocation assistance, the estimated amount of assistance based on the individual circumstances and needs, and the procedures for obtaining the assistance. The notice must be specific to the resident and his or her situation so that the resident will have a clear understanding of the type and amount of payments and/or other assistance the resident household may be entitled to claim.
  - The notice must comply with all requirements for a URA Notice of Relocation Eligibility as described in 49 C.F.R. § 24.203(b).
- (5) The notice must inform the resident that the relocation will be completed consistent with fair housing and civil rights requirements, and it must provide contact information to process reasonable accommodation requests for residents with disabilities during the relocation.

For short-term relocations, the RAD Notice of Relocation may also contain the information required in the Notice of Return to the Covered Project (see Section 6.6(F)).

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<sup>85</sup> Note that residents may elect to move to the relocation housing before the 90 days have elapsed. However, a PHA may not compel a resident to move prior to this time.

<sup>86</sup> PHAs should note that URA regulations also require, where possible, that three or more comparable replacement dwellings be made available before a resident is required to move from his or her unit.

*E) URA Notice of Relocation Eligibility – for residents whose temporary relocation exceeds one year (49 C.F.R. § 24.203(b))*

After a resident has been temporarily relocated for one year, notwithstanding a prior issuance of a RAD Notice of Relocation, the PHA or Project Owner must provide an additional notice: the notice of relocation eligibility in accordance with URA requirements (“URA Notice of Relocation Eligibility”). The URA Notice of Relocation Eligibility is not required if the resident has already accepted permanent relocation assistance.<sup>87</sup>

The URA Notice of Relocation Eligibility must conform to URA requirements as set forth in 49 C.F.R. part 24 and shall:

- Provide current information as to when it is anticipated that the resident will be able to return to the Covered Project.
- Give the resident the choice to remain temporarily relocated based upon the updated information or to accept permanent URA relocation assistance at that time instead of exercising the right to return at a later time.

If the resident chooses to accept permanent URA relocation assistance and this choice requires the resident to move out of their temporary relocation housing, the URA requires that the PHA or Project Owner make available at least one, and when possible, three or more comparable replacement dwellings pursuant to 49 C.F.R. § 24.204(a), which comparability analysis is in reference to the resident’s original unit. The URA further requires that the resident receive 90 days’ advance written notice of the earliest date they will be required to move pursuant to 49 C.F.R. § 24.203(c).

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<sup>87</sup> To illustrate, consider the following examples.

- Example 1: The household is expected to be relocated for 11 months. The resident would receive a RAD Notice of Relocation offering only temporary relocation. Construction delays result in the extension of the relocation such that, in fact, it exceeds 12 months. When the temporary relocation exceeds 12 months, the resident must receive a URA Notice of Relocation Eligibility offering a choice between continuation in temporary relocation status and permanent relocation.
- Example 2: The household is expected to be relocated for 14 months. The resident would receive a RAD Notice of Relocation offering a choice between temporary relocation status and permanent relocation. If the household elects temporary relocation, the URA Notice of Relocation Eligibility is required as an additional notice following twelve months in temporary relocation status.
- Example 3: The household is expected to be relocated for 14 months. The resident would receive a RAD Notice of Relocation offering a choice between temporary relocation status and permanent relocation. If the household elects permanent relocation, the URA Notice of Relocation Eligibility is not required.
- Example 4: The household can be accommodated with temporary relocation of 3 months, but has been offered and seeks to accept permanent relocation pursuant to an alternative housing option. This resident would receive a RAD Notice of Relocation under Section 6.6(D)(4) offering a choice between temporary relocation status (the default option) and permanent relocation (the alternative housing option), instead of the RAD Notice of Relocation under Section 6.6(D)(3) which would be expected absent a permanent relocation option. The URA Notice of Relocation Eligibility is not required in either case because a temporary relocation exceeding 12 months was never anticipated nor experienced.

### *F) Notification of Return to the Covered Project*

With respect to all temporary relocations, the PHA or Project Owner must notify the resident in writing reasonably in advance of the resident's expected return to the Covered Project, informing the resident of:

- The entity (the PHA or the Project Owner) with primary responsibility for managing the resident's relocation;
- The address of the resident's assigned unit in the Covered Project and, if different from the resident's original unit, information regarding the size and amenities of the unit;
- The date of the resident's return to the Covered Project or, if the precise date is not available, a reasonable estimate of the date which shall be supplemented with reasonable additional notice providing the precise date;
- That the PHA or Project Owner will reimburse the resident for all reasonable out-of-pocket expenses incurred in connection with the return relocation; and
- The resident's options and the implications of those options if the resident determines that he or she does not want to return to the Covered Project and wants to decline the right of return.<sup>88</sup>

Reasonable advance notice shall be 15% of the duration of the resident's temporary relocation or 90 days, whichever is less. For short-term relocations, the PHA or Project Owner may include this information within the RAD Notice of Relocation.

### **6.7. Relocation Advisory Services**

Throughout the relocation planning process, the PHA and Project Owner should be in communication with the residents regarding the evolving plans for relocation. Notwithstanding this best practice, certain relocation advisory services, described below, are required by the URA.

The URA regulations require the PHA or Project Owner to carry out a relocation assistance advisory program that includes specific services determined to be appropriate to residential or nonresidential displacements. The specific advisory services to be provided, as determined to be appropriate, are outlined at 49 C.F.R. § 24.205(c). For residential displacement under the URA, a personal interview is required for each displaced resident household to determine the relocation needs and preferences of each resident to be displaced. The resident household shall be provided an explanation of the relocation payments and other assistance for which the resident may be eligible, the related eligibility requirements, and the procedures for obtaining such assistance. Advisory counseling must also inform residents of their fair housing rights and be carried out in

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<sup>88</sup> If the resident declines to return to the Covered Project upon completion of the period of temporary relocation, the resident shall be considered to have voluntarily moved out of the property, without the benefit of further relocation assistance. For example, a PHA or Project Owner may have rented a market-rate apartment as a temporary relocation resource for a six-month period. In such a situation, the resident may decline to return to the Covered Project and choose to remain in the market-rate apartment at the expiration of the six-month period, but shall not be eligible for any further relocation assistance and payments (including rent differential payments) under this Notice, the URA or Section 104(d), if applicable, in connection with the resident's decision to remain in the temporary housing and not return to the Covered Project.

a manner that satisfies the requirements of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, and Executive Order 11063 (49 C.F.R. § 24.205(c)(1)).<sup>89</sup> Such advisory services under the URA may include counseling to ensure that residents affected by the project understand their rights and responsibilities and the assistance available to them (49 C.F.R. § 24.205(c)). In addition, the PHA or Project Owner should inform residents that if they believe they have experienced unlawful discrimination, they may contact HUD at 1-800-669-9777 (Voice) or 1-800-927-9275 (TDD) or at <http://www.hud.gov>.

## 6.8. Initiation of Relocation

PHAs and Project Owners **may not initiate any involuntary physical relocation until both the RCC is in effect and the applicable RAD Notice of Relocation period has expired** (i.e., after either 30 or 90 days' notice as applicable depending on nature of the relocation, as described above). This prohibition applies to all types of RAD transactions, regardless of whether the RAD Notice of Relocation is provided after issuance of a NOIA (for conversions involving acquisition) or following the effective date of the RCC (for all other conversions). PHAs are advised to account for the required 30-day or 90-day written notice periods in their planning process, to ensure that notices which satisfy all applicable requirements are issued prior to taking any action to initiate relocation.

**Neither involuntary nor voluntary relocation for the project shall take place prior to the effective date of the RCC**, unless moves are authorized under Section 7, below ("Applicability of HCV and Public Housing Requirements") or unless HUD provides explicit approval which will only be provided in extraordinary circumstances. The PHA must wait until the RAD Notice of Relocation period has expired before it may initiate any involuntary relocation. However, a resident may request to move voluntarily, and the PHA may honor a resident's request to move, before the applicable 30-day or 90-day period has elapsed, provided that the PHA may not take any action to encourage or coerce a resident to make such a request. If a resident has elected an alternative housing option, PHAs are advised to ensure that any consent to voluntary permanent relocation does not expire prior to the date of the relocation, as described in Section 6.10.

HUD may use administrative data to identify and investigate projects where relocation may be occurring prior to RCC.

## 6.9. Records and Documentation; Resident Log

HUD may request from the PHA or Project Owner written records and documentation in order to evidence the PHA's and/or Project Owner's compliance, as applicable, with this Notice and the URA.<sup>90</sup> HUD may request to review some or all of such records in the event of compliance

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<sup>89</sup> For example, under fair housing and civil rights laws, the PHA and Project Owner may be required to inform residents about and provide reasonable accommodations for individuals with disabilities, such as search assistance; take appropriate steps to ensure effective communication with individuals with disabilities, such as through the provision of auxiliary aids and services, such as interpreters and alternate format documents; provide advisory counseling services in accessible locations and in an accessible manner for individuals with disabilities; and take reasonable steps to ensure meaningful access for LEP persons. See Section 4 of this Notice for more information on these requirements.

<sup>90</sup> Chapter 6 of HUD Handbook 1378 includes guidance on URA recordkeeping requirements.

concerns, in the event a project is identified for additional review based on administrative data, in the event of audits for purposes of monitoring the RAD program as a whole, upon selection of a random sample of projects and/or at other times at HUD's sole discretion. The records shall include resident files for all households relocated in connection with RAD and a resident log as described in this Section.

As part of such written record, the PHA or Project Owner must maintain data sufficient to deliver to HUD a resident log of every household that resides at the Converting Project at the time of the first required resident meeting on the proposed conversion pursuant to Section 1.8 of the RAD Notice (the "First Resident Meeting") and of every household that moves into the Converting Project after the First Resident Meeting and before the conversion of assistance under RAD. If any relocation is required, the log shall track resident status through completion of rehabilitation and construction, including re-occupancy after relocation. The resident log must include, but need not be limited to, the following information:

- Name of head of household
- PHA's resident identification number and/or the last four digits of the head-of-household's Social Security Number
- The head of household's race and ethnicity as reported on the HUD Form 50058 or the HUD Form 50058 MTW (the "Form 50058"). For purposes of the resident log, all references to the Form 50058 shall be to the form most recently prepared at the time of the First Resident Meeting or, for residents who moved in after the First Resident Meeting, the form most prepared at the time of the resident's initial occupancy.
- A Yes/No indication if there is any household member reported as having a disability on the Form 50058.
- A Yes/No indication if there is any household member reported as under the age of 18 on the effective date of action of the Form 50058;
- The household's relevant unit address, unit size and household size at the following times:
  - The time of the First Resident Meeting or the time of a resident's initial occupancy if after the First Resident Meeting
  - The time of the issuance of the CHAP or the time of a resident's initial occupancy if after the issuance of the CHAP
  - Proximate and prior to the PHA or Project Owner having authority to initiate involuntary relocation activities (i.e., at the time of issuance of the RCC unless otherwise approved by HUD upon extraordinary circumstances)
  - Completion of the relocation process following construction or rehabilitation and with return of all households exercising the right of return
- The household's residence status at the time of issuance of the RCC (e.g., in residence at the Converting Project, transferred to other public housing, moved out, evicted or other with explanation)
- The household's residence status upon completion of re-occupancy (e.g., in residence at the Covered Project/never relocated, in residence at the Covered Project/temporarily relocated and returned, transferred to other public housing, moved out, evicted, permanently relocated or other with explanation)
- The following dates for each resident household, as applicable:
  - Date of the RAD Information Notice

- Date of the GIN
- Date of the CHAP
- Date of NOIA
- Date of RAD Notice of Relocation
- Date of URA Notice of Relocation Eligibility
- Date of most recent consent to voluntary permanent relocation<sup>91</sup>
- Date of relocation away from the Converting Project or Covered Project
- Dates of any intermediate relocation moves
- Date of return to the Covered Project or to the household's post-closing permanent address.<sup>92</sup>
- The following information for each resident household, as applicable:
  - The type of move (e.g., the types identified in Section 6.4, above)
  - The form of any temporary relocation housing (e.g., hotel, assisted housing, market-rate housing)
  - The address and unit size of any temporary relocation housing
  - Whether alternative housing options were offered consistent with Section 6.10, below
  - Any material terms of any selected alternative housing options
  - The type and amount of any payments for
    - Moving expenses to residents and to third parties
    - Residents' out-of-pocket expenses
    - Rent differential payments or other payments for temporary or permanent rental assistance, together with the rent and utilities (if applicable) that were the basis for the calculations
    - Any other relocation-related compensation or assistance

## 6.10. Alternative Housing Options

Under the RAD Notice, “involuntary permanent relocation” is prohibited and each resident must be able to exercise his or her right of return to the Covered Project. A PHA or Project Owner is permitted to offer a resident alternative housing options when a resident is considering his or her future housing plans, provided that at all times prior to the resident's decision, the PHA and Project Owner preserve the resident's ability to exercise his or her right of return to the Covered Project.

### A) *Requirements for Any Offer of Alternative Housing Options*

All residents who are similarly situated must be given the same offer of alternative housing options. If the PHA or Project Owner seeks to limit the number of households that accept the

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<sup>91</sup> The most recent consent must be within 180 days of the actual relocation date, as discussed in Section 6.10(D).

<sup>92</sup> In the case of voluntary permanent relocation, the date of “return” may be the same as the date of relocation away from the Converting Project.

offer of alternative housing options, the PHA or Project Owner shall determine a fair and reasonable method for selection among similarly situated residents.<sup>93</sup>

In connection with any offer and acceptance of alternative housing options, the PHA or Project Owner must ensure that the residents' decisions are: 1) fully informed; 2) voluntary; and 3) carefully documented. Any alternative housing option must include, at a minimum, all relocation assistance and payments required under this Notice, the URA and Section 104(d), as applicable, and may include other elements. Funds administered by HUD may not be used to pay any monetary elements not required under this Notice, the URA or Section 104(d).

Acceptance of an alternative housing option is considered voluntary permanent relocation and the accompanying RAD relocation assistance and payments for which the resident may be eligible must be administered in accordance with all requirements for an eligible displaced person under the URA and its implementing regulations and, where applicable, Section 104(d) and its implementing regulations.

PHAs may not propose or request that a displaced person waive rights or entitlements to relocation assistance under the URA or Section 104(d). The PHA must provide a written notice of URA or Section 104(d) relocation assistance and payments for which the resident may be eligible so that the resident may make an informed housing choice. The resident must be provided at least thirty (30) days to consider the offer of voluntary permanent relocation and the resident's acceptance of the PHA's offer of voluntary permanent relocation must be in writing signed by the head of the household for that unit.

#### *B) Assisted Housing Options as Alternatives*

Alternative housing option packages may include a variety of housing options and PHAs and Project Owners shall take particular care to ensure program compliance with the regulations applicable to the alternative housing options. Examples of alternative housing options may include:

- Transfers to public housing
- Admission to other affordable housing properties subject to the program rules applicable to such properties
- Housing Choice Vouchers (HCVs) subject to standard HCV program administration requirements. PHAs must operate their HCV programs, including any HCVs offered as an alternative housing option, in accordance with their approved policies as documented in their Section 8 Administrative Plan and HUD regulations at 24 C.F.R. part 982. Any offer of an HCV as an alternative housing option must be made consistent with the

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<sup>93</sup> For example, if the RAD conversion is financed by LIHTC and a few residents would not meet LIHTC program requirements, the PHA and Project Owner may want to offer these household alternative voluntary permanent relocation options. However, they must offer the same alternative housing options to all such households. As a second example, if the PHA and Project Owner seek to create two on-site vacancies of a particular unit size in order to facilitate temporary relocation on-site, the PHA may offer an alternative housing option of a housing choice voucher to all residents of applicably sized units (assuming that to do so is consistent with the PHA's voucher administration policies), and conduct a lottery to select the two households which will receive the vouchers.



PHA's admission preferences and other applicable policies and procedures set forth in the Section 8 Administrative Plan.

- Homeownership programs subject to the applicable program rules
- Other options as may be identified by the PHA and/or Project Owner

*C) Monetary Elements Associated With Alternative Housing Options*

A PHA or a Project Owner may include a monetary element in an alternative housing option package, provided that:

- Any monetary element associated with the alternative housing option shall be completely distinct from and in addition to any required RAD, URA or Section 104(d) relocation payments and benefits for which the resident is eligible ("Required Relocation Payments").
- No funds administered by HUD may be used to pay for any monetary element associated with the alternative housing option other than Required Relocation Payments.
- Any monetary element associated with the alternative housing option other than Required Relocation Payments must be the same amount offered to all similarly situated households.<sup>94</sup>
- Any alternative housing option package must comply fully with the disclosure and agreement provisions of this Notice.

*D) Disclosure and Agreement to Alternative Housing Options*

In providing an offer of alternative housing options to a resident, the PHA or Project Owner must inform the resident in writing of: a) his or her right to return;<sup>95</sup> b) his or her right to comment on and/or object to plans which would preclude the resident from returning to the Covered Project; c) the requirement that if the resident objects to such plans, the PHA or Project Owner must alter the project plans to accommodate the resident in the Covered Project; and d) a description of both the housing option(s) and benefits associated with the right of return and the alternative housing options and benefits being offered. In the description of the available housing options and benefits, the PHA or Project Owner shall include a description of any temporary housing options associated exercising the right of return and a description of any permanent alternative housing options as well as a reasonable estimate of the financial implications of all temporary and permanent options on the resident long-term.

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<sup>94</sup> Monetary payments other than Required Relocation Payments are considered "temporary, nonrecurring or sporadic income" pursuant to 24 C.F.R. § 5.609(c)(9) and consequently are excluded from income for purposes of eligibility and assistance calculations under certain HUD programs. Residents should be reminded that monetary payments other than URA relocation payments may be taxable under the Internal Revenue Code, that monetary payments, including required relocation payments, may affect residents' eligibility for other assistance programs and that the resident should seek knowledgeable guidance on these matters, including guidance on the taxation of monetary payments under state law.

<sup>95</sup> In the case of a transfer of assistance to a new site a significant distance from the Converting Project as described in Section 6.4(E), the resident shall be informed of the resident's right to return to the Covered Project at the new site and of the resident's right to an assisted unit within a reasonable distance of the site of the Converting Project, as described in Section 6.4(E).

The written notification may request written consent from the resident to exercise the alternative housing option and receive permanent relocation assistance and payments pursuant to RAD, the URA and/or Section 104(d), as applicable, in addition to any benefits associated with the alternative housing option. As part of any voluntary consent, the resident head of household must acknowledge in writing that acceptance of such assistance terminates the resident's right to return to the Covered Project. In order to ensure that the resident has sufficient time to seek advice and consider the alternative housing options, any consent to an alternative housing option executed within 30 days of the written presentation of the options shall be invalid.

Any offer of alternative housing options must be made in writing and the acceptance of the alternative must be voluntary and in writing. The offer of an alternative housing option must contain the following elements:

- The resident is informed of his or her right to return to the Covered Project and that neither the PHA nor the Project Owner can compel the resident to relinquish his or her right to return. The offer of alternative housing options must clearly state that acceptance of any alternative would relinquish the resident's right to return to the Covered Project.
- The offer of an alternative housing option must be accompanied by identification of comparable housing units which the resident may use to understand the nature of housing options available to them and the rent and estimated utility costs associated with such housing options. This information must also be accompanied by a reasonable estimate of any replacement housing payment or "gap payment" for which the resident may be eligible.
- The offer of an alternative housing option must be accompanied by information regarding moving payments and assistance that would be available if the resident exercises the right of return and if the resident accepts the alternative housing option.
- Residents must be offered advisory assistance to consider their options.
- To be fully informed, the offer must outline the implications and benefits of each alternative housing option being made available (i.e., of accepting each alternative housing option as compared to exercising his or her right to return) as well as a reasonable estimate of when the resident's relocation might occur. Implications and benefits include payment amounts, differences in rent calculations, differences in program rules, housing location, and potential long-term implications such as household housing expenses multiple years in the future.
- To be fully voluntary, the resident must have at least thirty (30) days following delivery of the written offer to consider their options. LEP persons must be provided a written translation of the offer and oral interpretation of any meetings or counseling in the appropriate language. In addition, PHAs must comply with their obligation to ensure effective communication with persons with disabilities.
- The resident cannot be asked to make a decision which will be implemented at a distant future time. Consequently, the resident may not provide written consent to an alternative housing option (and consequently, consent to voluntary permanent relocation) until after

the earlier of issuance of the NOIA or the effective date of the RCC.<sup>96</sup> If a resident signs a written consent to accept an alternative housing option, that written consent is valid for 180 days. If relocation (after the applicable notice periods) has not occurred within this 180 day period, then the PHA or Project Owner must secure a new consent to accept an alternative housing option. New relocation notices are generally not required.

- The acceptance must be in writing signed by the resident head of household, including a certification of facts to document that the household is relinquishing its right to return and that the decision and the acceptance of the alternative housing option was fully informed and voluntary.
- Residents accepting alternative housing options to relinquish their right to return will be considered to have voluntarily and permanently relocated. Such residents are to be provided applicable RAD, URA and/or Section 104(d) relocation assistance and payments.

The information included with the offer of alternative housing options is to aid the resident in making decisions regarding the desirability of the alternative housing options and neither satisfies nor replaces the relocation notices and information required to be provided to residents pursuant to this Notice, the URA or Section 104(d).

While HUD does not require PHAs to submit documentation of alternative housing options offered to residents or the residents' elections, PHAs must keep auditable written records of such consultation and decisions. HUD may request this documentation at any time, including as part of a review of the Checklist or if relocation concerns arise.

### **6.11. Lump Sum Payments**

PHAs and Project Owners should note that certain relocation payments to displaced residential tenants may be subject to 42 USC § 3537c ("Prohibition of Lump-Sum Payments") and must be disbursed in installments. The PHA or Project Owner may determine the frequency of the disbursements which must be made in installments. Handbook 1378, Chapter 3-7(D) provides guidance on the manner and frequency of disbursing payments subject to this requirement.

Any monetary element beyond Required Relocation Payments which may be associated with an alternative housing option described in Section 6.10, above, is not relocation assistance and is therefore not subject to the requirements regarding lump sum payments.

## **SECTION 7. APPLICABILITY OF HCV AND PUBLIC HOUSING REQUIREMENTS**

### **7.1. HCV Waiting List Administration Unrelated to the RAD Transaction**

From time to time, a resident of a Converting Project may place themselves on the PHA's waiting list for HCVs independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs should continue to

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<sup>96</sup> The PHA and Project Owner should note that securing resident consent to an alternative housing option may delay the issuance of the RAD Notice of Relocation. The RAD Notice of Relocation must be specific to whether the resident will be temporarily or permanently relocated.

administer their HCV waiting list in accordance with their Section 8 Administrative Plans. Residents who rise to the top of the HCV waiting list independent of any preference for relocating RAD residents or other RAD provisions and accept an HCV are not considered to be relocated as a result of the RAD conversion. Standard administration of the PHA's HCV waiting list is not considered relocation.

## **7.2. HCV Waiting List Administration Related to the RAD Transaction**

From time to time, a PHA may wish to use HCV resources as a relocation option in connection with a RAD transaction. In order to do so, a PHA must modify its Section 8 Administrative Plan to provide a preference for relocating RAD residents and the PHA is subject to Section 6.8 of this Notice relating to initiation of relocation. Further, if a PHA provides a preference for relocating RAD residents, the PHA must be explicit regarding the nature of the HCV as a relocation resource. If the PHA anticipates using the HCV as a temporary relocation resource, the PHA must recognize that it cannot rescind an HCV once issued to the resident (i.e., the family would have to voluntarily relinquish their voucher and may choose to remain in the HCV program indefinitely). The PHA must also provide a preference for admission to the Covered Project in order to satisfy the right to return. Alternatively, if the PHA anticipates using the HCV as a voluntary permanent relocation resources, the PHA must comply with the alternative housing options provisions of Section 6.10.<sup>97</sup>

## **7.3. Public Housing Transfers Unrelated to the RAD Transaction**

From time to time, a resident of a Converting Project may request a transfer to another public housing property independent of any planned RAD transaction. With respect to residents of a Converting Project prior to the effective date of the HAP contract, PHAs must continue to administer their admissions and occupancy procedures as adopted. Any prohibitions in this Notice on implementing relocation do not apply to residents requesting public housing transfers, moves pursuant to the Violence Against Women Act (VAWA)<sup>98</sup> or reasonable accommodation moves. Standard administration of the PHA's admissions and occupancy policy is not considered relocation.<sup>99</sup> Transfers not undertaken for the RAD project are not subject to URA. However, it is recommended that the PHA document the transfer carefully, including an acknowledgement by the resident that the transfer is not undertaken for the RAD project, is not

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<sup>97</sup> PHAs and Project Owners should note that while in most cases, there is no rent differential between the tenant paid rent in a public housing unit and in an HCV, there are some situations (such as flat rent households) where a difference does exist. Rental assistance payments under the URA are required if there is a difference between these two amounts.

<sup>98</sup> Title IV, section 40001-40703.

<sup>99</sup> Standard administration of the PHA's admissions and occupancy policy is permitted. However, HUD is sensitive to concerns that discussion of the planned RAD conversion and construction activities may cause residents to perceive a pressure to transfer without the counseling and moving assistance which would be available were the household to wait until relocation. If relocation at the Converting Project is planned, PHAs are strongly advised to document any such transfers carefully and to provide any households moving under standard admissions and occupancy policies with additional notices referencing the assistance and payments which would be available if the household were to remain in place until the relocation plan is implemented.

subject to URA requirements and that the resident is moving notwithstanding the guidance in the GIN or other relocation guidance from the PHA.

#### **7.4. Resident Initiated Public Housing Transfers Related to the RAD Transaction**

Pursuant to Section 1.8 of the RAD Notice, households in the Converting Project who do not want to transition to the Section 8 program may be offered, if available, the opportunity to move to other public housing owned by the PHA. Such move shall be implemented as a transfer and shall be prioritized equivalent to a “demolition, disposition, revitalization or rehabilitation transfer” as described in Section 11.2 of the applicable Public Housing Occupancy Guidebook. Transfers for this purpose do not require any modification to the PHA’s admissions and occupancy policy and may occur at any time pursuant to the PHA’s admissions and occupancy policy. Transfers for this purpose, while initiated by the resident, are the result of the PHA-initiated RAD transaction and the PHA must bear the reasonable costs of transfer. The reasonable cost of the transfer includes not just the cost of packing, moving, and unloading, but also the cost of disconnecting and reconnecting any existing resident-paid services such as telephone and cable television. The PHA must also document that the resident’s transfer request is fully informed and fully voluntary, which documentation must include an acknowledgement by the resident that the transfer is not undertaken at the request of the PHA or under pressure from the PHA, that the resident is moving notwithstanding the guidance in the GIN or other relocation guidance from the PHA and that the resident is withdrawing from participation in the RAD program and consequently losing rights, including the right to return, which accrue to residents participating in the RAD program. A public housing resident who voluntarily seeks a public housing transfer is generally not considered to be displaced under the URA or Section 104(d), where applicable.

#### **7.5. Public Housing as a Temporary Relocation Resource**

PHAs and Project Owners may wish to mitigate the relocation budget associated with the RAD conversion by using units within the PHA’s portfolio as relocation resources. In light of its mission to serve as many low-income households as possible, including its need to accommodate emergency transfers (such as moves pursuant to VAWA), the PHA should minimize the use of the public housing units not converting under RAD for temporary relocation of RAD impacted residents. HUD has a strong preference that the PHA use the units within the PHA’s Converting Projects as a temporary relocation resource prior to using units in the remainder of the PHA’s public housing portfolio. PHAs may elect not to lease units within the Converting Projects or, if necessary, the remainder of its portfolio, for this purpose only to the extent reasonably necessary to facilitate construction or rehabilitation.

Upon the effective date of the HAP contract (usually also the effective date of the RAD conversion), each resident of a Covered Project becomes a participant in the Section 8 program and is no longer part of the public housing program. A PHA may use public housing as a temporary relocation resource if approved by HUD, which approval shall depend on the proposed structure. PHAs wishing to use public housing units as a temporary relocation resource must consult with HUD’s Office of Public and Indian Housing (PIH) prior to the formal request for HUD approval. It is unlikely that HUD would approve a request to use public housing units

as a relocation resource for a period exceeding one year after the effective date of the HAP contract.

If HUD grants approval, HUD shall provide alternative requirements regarding PIH Information Center (PIC) documentation of the occupancy of these temporary relocation resources. PHAs must follow any guidance or instructions regarding treatment of the public housing units in HUD's data systems as may be provided from time to time.

PHAs and Project Owners should note that, absent written approval, if a resident seeks to occupy a public housing unit after the effective date of the HAP contract, the resident would need to be readmitted to public housing in a manner consistent with the waitlist and admissions policies and must exit the Section 8 program.

#### **7.6. Terminations (Including Evictions) and End of Participation Unrelated to the RAD Transaction**

Public housing program requirements related to continued occupancy and termination, including rules on grievances and related hearings, remain in effect until the effective date of a new PBV or PBRA HAP contract. If a resident is evicted in accordance with applicable state and local law and the eviction is not undertaken for the purpose of evading the obligation to make available RAD relocation and URA payments and other assistance, the resident is generally not entitled to relocation assistance and payments under this Notice or the URA (49 C.F.R. § 24.206). If a resident voluntarily ends his or her participation in the public housing program, in the absence of evidence that the end of participation was induced by the PHA for the purpose of evading the obligation to make available RAD relocation and URA payments and other assistance, the resident is generally not entitled to relocation assistance and payments under this Notice or the URA.

#### **7.7. Right-Sizing**

Public housing, PBV and PBRA requirements mandate that, upon the availability of a unit which is appropriate for the household size, the PHA or Project Owner must transfer a household that is under- or over-housed into the unit appropriate to the household's size. However, accommodating all residents pursuant to the right of return has primacy over right-sizing requirements and may, in some cases, require temporarily over-housing households. In such circumstances, the PHA or Project Owner shall subsequently transfer the household to an appropriate size unit when available, as is required by the applicable program regulation. Such actions shall be governed by the applicable program regulation and shall not be considered relocation under this Notice.

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Lourdes Castro-Ramirez  
Principal Deputy Assistant Secretary for  
Public and Indian Housing

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Edward L. Golding  
Principal Deputy Assistant Secretary for  
Housing

**APPENDIX I: Applicable Legal Authorities**

**APPENDIX II: Recommended Relocation Plan Contents**

## **APPENDIX I: Applicable Legal Authorities**

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### **Part 1**

This Appendix to the Notice identifies key legal authorities with respect to fair housing, civil rights, and resident relocation. This Appendix is not exhaustive of applicable legal authorities, which authorities may also include other Federal statutes, regulations and Executive Orders, and civil rights provisions related to other programs (including funding programs) associated with the RAD transaction.

#### **Fair Housing Act (Title VIII of the Civil Rights Act of 1968, as amended)**

The Fair Housing Act, 42 U.S.C. § 3601 et seq., and its implementing regulations, 24 C.F.R. part 100, prohibit discrimination in the sale, rental, and financing of dwellings, and in other housing-related transactions, based on race, color, national origin, religion, sex, disability, or familial status. The Fair Housing Act applies to for-sale and rental housing, whether the housing is privately or publicly funded, including housing supported by tax credits. Single family homes, condominiums, apartment buildings, time-shares, dormitories, transitional housing, homeless shelters that are used as a residence, student housing, assisted living housing, and other types of housing are all covered by the Fair Housing Act.

Among its substantive provisions, the Fair Housing Act requires “covered multifamily dwellings,” designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas are subject to the Act’s design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas are subject to the Act’s design and construction requirements.<sup>100</sup> In addition, the Fair Housing Act requires that housing providers make reasonable accommodations in rules, policies, and services, when such accommodations may be necessary to afford a person with a disability equal opportunity to use and enjoy a dwelling unit, including public and common use areas, and that housing providers permit reasonable modifications of existing premises for persons with disabilities.

The Fair Housing Act also requires HUD to administer HUD programs and activities in a manner that affirmatively furthers fair housing (42 U.S.C. § 3608(e)(5)). HUD’s affirmatively furthering fair housing (“AFFH”) rule in 24 C.F.R. §§ 5.150-5.180 will apply to PHAs (except for qualified PHAs) for the PHA’s fiscal year that begins on or after January 1, 2018 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5. The affirmatively furthering fair housing regulations will apply to qualified PHAs, for the PHA’s fiscal year that begins on or after January 1, 2019 for which a new 5-year plan is due, as provided in 24 C.F.R. § 903.5.<sup>101</sup>

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<sup>100</sup> See 42 U.S.C. § 3604(f)(3)(c) and 24 C.F.R. § 100.205.

<sup>101</sup> For purposes of the AFFH rule, “[a]ffirmatively furthering fair housing means taking meaningful actions, in addition to combating discrimination, that overcome patterns of segregation and foster inclusive communities free from barriers that restrict access to opportunity based on protected characteristics. Specifically, affirmatively furthering fair housing under the AFFH rule means taking meaningful actions that, taken together, address



Additional detail and discussion of the interplay between the Fair Housing Act, Section 504, and Titles II or III of the Americans with Disabilities Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

### United States Housing Act of 1937 (1937 Act)

The United States Housing Act of 1937 (1937 Act) (42 U.S.C. § 1437c-1(d)(15)) requires PHAs to submit a 5-year plan and an Annual Plan. Pursuant to HUD regulations, the Annual Plan includes a certification by the PHA that the PHA will affirmatively further fair housing.

### Title VI of the Civil Rights Act of 1964

Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*) and HUD's implementing regulation (24 C.F.R. part 1) prohibit recipients of Federal financial assistance from discriminating, excluding from participation, or denying benefits to, any person on the basis of race, color, or national origin. In addition, Title VI regulations prohibit HUD recipients of Federal financial assistance from utilizing criteria or methods of administration which have the effect of subjecting individuals to discrimination because of their race, color, or national origin (24 C.F.R. § 1.4(b)(2)(i)). When determining the site or location of housing, recipients may not make selections with the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the ground of race, color, or national origin (24 C.F.R. § 1.4(b)(3)). An applicant or recipient of HUD financial assistance also has an obligation to take reasonable action to remove or overcome the consequences of prior discriminatory practices regardless of whether the recipient engaged in discriminatory conduct (24 C.F.R. § 1.4(b)(6)).

Recipients of Federal financial assistance are required to take reasonable steps to ensure meaningful access to their programs and activities for persons who have limited ability to read, speak, or understand English – i.e., individuals who have limited English proficiency (LEP). This includes oral and written communications during relocation and throughout a RAD transaction. Such language assistance may include, but is not limited to, providing written translation of notices regarding the plans for the project and relocation and oral interpretation at meetings. Otherwise, LEP persons may be denied participation in, and the benefit of, the recipients' program or activity. On January 22, 2007, HUD issued "Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons" (LEP Guidance), available at: [http://www.lep.gov/guidance/HUD\\_guidance\\_Jan07.pdf](http://www.lep.gov/guidance/HUD_guidance_Jan07.pdf).<sup>102</sup>

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significant disparities in housing needs and in access to opportunity, replacing segregated living patterns with truly integrated and balanced living patterns, transforming racially and ethnically concentrated areas of poverty into areas of opportunity, and fostering and maintaining compliance with civil rights and fair housing laws." 24 C.F.R. § 5.150. Meaningful actions means significant actions that are designed and can be reasonably expected to achieve a material positive change that affirmatively furthers fair housing by, for example, increasing fair housing choice or decreasing disparities in access to opportunity. See 24 C.F.R. § 5.152.

<sup>102</sup> See also Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, which requires recipients of Federal financial assistance to take reasonable steps to provide meaningful access to

### Section 504 of the Rehabilitation Act of 1973

Section 504 of the Rehabilitation Act of 1973 provides: “No otherwise qualified individual with a disability in the United States ... shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program, service or activity receiving Federal financial assistance.”<sup>103</sup>

Among other things, HUD’s regulations implementing Section 504 (in 24 C.F.R. part 8) prohibit recipients of Federal financial assistance, in determining the site or location of a facility receiving such assistance, from making site selections the purpose or effect of which would (1) exclude qualified individuals with disabilities from or deny them the benefits of a program or activity, or otherwise subject them to discrimination; or (2) defeat or substantially impair the accomplishment of the objectives of the program or activity with respect to qualified individuals with disabilities.<sup>104</sup> These prohibitions apply to both determining the site of permanent facilities and a site for relocation of residents.

Furthermore, HUD’s implementing regulations prohibit discrimination, the denial of benefits, or the exclusion of participation of individuals with disabilities from the programs or activities of recipients of federal financial assistance because a recipient’s facilities are inaccessible. Such recipients must provide qualified individuals with disabilities with program access, which may require modification of architectural features of facilities in RAD transactions for individuals with disabilities to have access to the program. Certain architectural specifications apply to facilities that are altered or newly constructed with HUD financial assistance, such as facilities where assistance is transferred and facilities used as temporary or permanent relocation sites for residents of a project undergoing a RAD conversion. If alterations are made to a housing facility, the alterations to dwelling units in the facility are required, to the maximum extent feasible (i.e., if doing so would not impose undue financial and administrative burdens on the operation of the project), to be made readily accessible to and usable by individuals with disabilities. If alterations taken to a development that has 15 or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility (except when it requires removal of structural load-bearing members), or if the facility is newly constructed, then a minimum of 5% of the total dwelling units, or at least one unit in a development, whichever is greater, must be made accessible for persons with mobility impairments. An additional 2% of the units, but not less than one unit, in a development must be accessible for persons with hearing and vision impairments.

In addition, regulations implementing Section 504 require recipients to make reasonable accommodations for persons with disabilities. A reasonable accommodation is a change, adaptation, or modification to a policy, program, service, or workplace which will allow a qualified person with a disability to participate fully in a program, take advantage of a service, or perform a job. Section 504 also includes effective communication requirements, such as

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their programs and activities for LEP persons. E.O. 13166 directs all Federal agencies, including HUD, to issue guidance to help recipients of Federal financial assistance in providing such meaningful access to their programs.

<sup>103</sup> 29 U.S.C. § 794. HUD’s Section 504 regulation that applies to recipients of Federal financial assistance, including PHAs and Project Owners, is located at 24 C.F.R. part 8.

<sup>104</sup> 24 C.F.R. § 8.4(b)(5).

providing interpreters and alternate format documents (e.g., Braille, large print, accessible electronic communications) for persons with disabilities.

Additional detail and discussion of the interplay between Section 504, the Fair Housing Act, and Titles II or III of the Americans with Disabilities Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

### Titles II and III of the Americans with Disabilities Act

Title II of the Americans with Disabilities Act (ADA) prohibits discrimination on the basis of disability in all services, programs, and activities provided or made available by public entities. Title II of the ADA applies to housing developed or operated by state and local governments, which includes a PHA. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. For example, Title III applies to rental offices, sales offices, homeless shelters, hotels and motels, and commercial spaces associated with housing, such as daycare centers, social service offices, and sales and retail establishments. Titles II or III also will generally apply to community spaces and facilities, such as neighborhood networks, to computer centers (including the computers in the centers), and to transportation services and conveyances provided by PHAs and Project Owners.

Additional detail and discussion of the interplay between Titles II and III of the Americans with Disabilities Act, the Fair Housing Act, and Section 504 of the Rehabilitation Act as these authorities relate to accessibility requirements is described in Part 2 of this Appendix.

### Section 109

Section 109 of the Housing and Community Development Act of 1974 (HCDA of 1974), Title I, prohibits discrimination on the basis of race, color, national origin, disability, age, religion, and sex in Community Development Block Grant (CDBG) programs and activities. Section 109 applies to RAD projects that receive CDBG or other assistance under Title I of the HCDA of 1974.

In addition to its responsibility for enforcing other Federal statutes prohibiting discrimination in housing, HUD has a statutory obligation under Section 109 to ensure that individuals are not subjected to discrimination on the basis of race, color, national origin, disability, age, religion, or sex by recipients of CDBG funds. Section 109 charges HUD with enforcing the right of individuals to live in CDBG-funded housing and participate covered programs and activities free from such discrimination. However, this additional statutory authority only applies to programs authorized under Title I of the HCDA of 1974, such as CDBG and programs, such as Section 108 loan guarantees and the Historically Black Colleges and Universities program.

### Equal Access to HUD-assisted or HUD-insured Housing

HUD requires its housing programs to be open to all eligible individuals and families regardless of sexual orientation, gender identity or marital status. HUD recipients and subrecipients must comply with 24 C.F.R. § 5.105(a)(2) when determining eligibility for housing assisted with HUD

funds or subject to an FHA-insured mortgage, and when making such housing available. This includes making eligibility determinations and making housing available regardless of actual or perceived sexual orientation, gender identity, or marital status, and prohibiting inquiries about sexual orientation or gender identity for the purpose of making eligibility determinations or making housing available. Applicants are encouraged to become familiar with these requirements, HUD's definitions of sexual orientation and gender identity at 24 C.F.R. § 5.100, clarifications to HUD's definition of family at 24 C.F.R. § 5.403, and other regulatory changes made through HUD's Equal Access Rule, published in the Federal Register at 77 FR 5662 (Feb. 3, 2012).

### Section 3: Economic Opportunities for Low- and Very Low-income Persons.

Certain HUD programs require recipients of assistance to comply with Section 3 of the Housing and Urban Development Act of 1968 (Section 3), 12 U.S.C. § 1701u (Economic Opportunities for Low- and Very Low-Income Persons in Connection with Assisted Projects), and the HUD regulations at 24 C.F.R. part 135. The regulations at 24 C.F.R. part 135 implementing Section 3 ensure, to the greatest extent feasible, that training, employment, contracting and other economic opportunities be directed to low- and very low-income persons, especially recipients of government assistance for housing, and to businesses that provide economic opportunities to low- and very low-income persons where proposed project is located. Recipients of funds covered by Section 3 must comply with 24 C.F.R. part 135, particularly subpart B-Economic Opportunities for Section 3 residents and Section 3 Business Concerns, and Subpart E-Reporting and Recordkeeping. HUD encourages recipients to search the national Section 3 Business Registry to find local businesses that prioritize hiring Section 3 residents.

### Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, 42 USC § 4601 *et seq.* (URA) is a Federal law that establishes minimum standards for programs or projects receiving Federal financial assistance that include the acquisition of real property (real estate) and/or displace persons from their homes, businesses, or farms as a result of acquisition, rehabilitation, or demolition.<sup>105</sup> The URA implementing Federal regulations can be found at 49 C.F.R. part 24. Project-Based Voucher (PBV) and Project-Based Rental Assistance (PBRA) are considered Federal financial assistance for purposes of the URA. As a result, the URA will apply to acquisitions of real property and relocation of persons from real property that occur as a direct result of acquisition, rehabilitation or demolition for a project that involves conversion of assistance to PBV or PBRA programs under RAD.

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<sup>105</sup> For additional guidance, see HUD Handbook 1378 Tenant Assistance, Relocation, and Real Property Acquisition), available at: [http://portal.hud.gov/hudportal/HUD?src=/program\\_offices/comm\\_planning/library/relocation/policyandguidance/handbook1378](http://portal.hud.gov/hudportal/HUD?src=/program_offices/comm_planning/library/relocation/policyandguidance/handbook1378).

### Section 104(d) of the Housing and Community Development Act of 1974

Section 104(d) of the Housing and Community Development Act of 1974, as amended, 42 USC § 5304(d), (Section 104(d)), is a Federal law that applies when a lower-income dwelling is demolished or converted (as conversion is defined in accordance with 24 C.F.R. § 42.305) to a use other than lower-income housing in connection with a Community Development Block Grant Program (CDBG) or HOME Investment Partnerships Program (HOME) funded activity. Under Section 104(d), a lower-income person is considered displaced and, therefore eligible for Section 104(d) relocation assistance if the person permanently moves from real property or permanently moves personal property from real property as a direct result of the demolition or conversion of a lower-income dwelling to a use other than lower-income dwelling unit in connection with a CDBG or HOME funded activity. The Section 104(d) one-for-one replacement housing requirements may apply with respect to occupied and vacant occupiable lower-income dwelling units that are demolished or converted to a use other than lower-income dwelling units in connection with CDBG or HOME funded activity. Section 104(d) implementing regulations can be found at 24 C.F.R. part 42, Subpart C. Additional HUD policy and guidance for Section 104(d) is available in HUD Handbook 1378, Chapter 7.

### **Part 2 – Accessibility Requirements**

Federal accessibility requirements apply to all RAD projects – whether they include new construction, alterations, or existing facilities. Applicable laws include, but are not limited to, the Fair Housing Act, Section 504 of the Rehabilitation Act, and Titles II or III of the Americans with Disabilities Act (ADA). A PHA or Project Owner must comply with each law that applies to its project and with the requirement that provides the most accessibility when two or more laws apply. All three laws include new construction requirements. Substantial alterations, additions, rehabilitation and existing facilities must be in compliance with applicable requirements of Section 504 and the ADA.<sup>106</sup> All three laws may also require reasonable accommodations or modifications.

#### Accessibility Requirements for New Construction

The Fair Housing Act requires all “covered multifamily dwellings” designed and constructed for first occupancy after March 13, 1991, to be readily accessible to and usable by persons with disabilities. In buildings with four or more dwelling units and at least one elevator, all dwelling units and all public and common use areas must meet the Fair Housing Act’s design and construction requirements. In buildings with four or more dwelling units and no elevator, all ground floor units and public and common use areas must meet the Fair Housing Act’s design and construction requirements. The Fair Housing Act requires that all covered multifamily dwellings be designed and constructed so that public and common use areas are readily accessible to and usable by persons with disabilities; all doors are sufficiently wide to allow passage by persons using wheelchairs; all units contain accessible routes into and through the dwelling unit; light switches, electrical outlets, thermostats, and other environmental controls are in accessible locations; reinforcements are installed in bathroom walls to allow later installation

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<sup>106</sup>See 24 C.F.R. § 100.205 (Fair Housing Act) and 24 C.F.R. §§ 8.22 and 8.23 (Section 504). See also 28 C.F.R. § 35.151(b) and 28 C.F.R. part 36 (ADA Titles II and III regulations, respectively).

of grab bars; and kitchens and bathrooms are usable such that a person in a wheelchair can maneuver about the space.<sup>107</sup> These design and construction requirements apply whether the housing is privately or publicly funded, including housing supported by tax credits.<sup>108</sup>

New construction of a multifamily housing project containing five or more dwelling units is also subject to physical accessibility requirements under Section 504. Under Section 504, a “project” includes all residential and appurtenant structures, equipment, roads, walks, and parking lots which are covered by a single contract or application for Federal financial assistance, or are treated as a whole for processing purposes, whether or not they are located on a single site.<sup>109</sup> The accessibility standards for new construction under Section 504 are the Uniform Federal Accessibility Standards (UFAS).<sup>110</sup> HUD recipients may also use the 2010 ADA Standards for Accessible Design under title II of the ADA, except for certain specific identified provisions, as detailed in HUD’s Notice on “Instructions for use of alternative accessibility standard,” published in the Federal Register on May 23, 2014 (“Deeming Notice”). This option exists until HUD formally revises its Section 504 regulation to adopt an updated accessibility standard. Refer to HUD’s Deeming Notice for more information.

Section 504 also requires that a minimum of 5% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with mobility impairments. An additional 2% of the total dwelling units or at least one unit, whichever is greater, is required to be accessible for persons with vision and hearing impairments.<sup>111</sup> HUD may prescribe a higher percentage or number of units upon request by any affected recipient or by any State or local government or agency based upon demonstration to the reasonable satisfaction of HUD of a need for a higher percentage or number, based on census data or other available current data, or in response to evidence of a need for a higher percentage or number received in any other manner. In reviewing such request or otherwise assessing the existence of such needs, HUD shall take into account the expected needs of eligible persons with and without disabilities.<sup>112</sup>

Title II of the ADA prohibits discrimination on the basis of disability in all services, programs, and activities provided or made available by public entities. Title II of the ADA applies to housing programs, including housing developed or operated by state and local governments, which includes PHAs. Title III of the ADA prohibits discrimination on the basis of disability by public accommodations, including rental offices, and requires places of public accommodation and commercial facilities to be designed, constructed, and altered in compliance with established accessibility standards. All newly constructed or altered facilities, including facilities altered to

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<sup>107</sup> See 24 C.F.R. § 100.205.

<sup>108</sup> For more information about the design and construction provisions of the Fair Housing Act, see [www.fairhousingfirst.org](http://www.fairhousingfirst.org). See also the Joint Statement of the Department of Housing and Urban Development and the Department of Justice, Accessibility (Design and Construction) Requirements for Covered Multifamily Dwellings Under the Fair Housing Act (April 30, 2013), available at: [www.hud.gov/offices/fheo/library/hudjointstatement.pdf](http://www.hud.gov/offices/fheo/library/hudjointstatement.pdf).

<sup>109</sup> See 24 C.F.R. § 8.3.

<sup>110</sup> The UFAS are available at <https://www.access-board.gov/guidelines-and-standards/buildings-and-sites/about-the-aba-standards/ufas>). See also 24 C.F.R. § 8.32.

<sup>111</sup> See 24 C.F.R. § 8.22.

<sup>112</sup> See HUD regulation at 24 C.F.R. § 8.22(c).

comply with program access and readily achievable barrier removal obligations that exist under Titles II or III of the ADA, must comply with the U.S. Department of Justice's ADA architectural accessibility standards as described in the following U.S. Department of Justice Technical Assistance document ADA Requirements, Effective Date/Compliance Date (Feb. 2011), [http://www.ada.gov/revised\\_effective\\_dates-2010.htm](http://www.ada.gov/revised_effective_dates-2010.htm).

### Accessibility Requirements for Alterations

If a building was constructed for first occupancy after March 13, 1991, the building must be in compliance with, and all alterations must maintain the building's accessible features so that the building continues to meet, the Fair Housing Act's accessibility requirements. In addition, without regard to the date of construction for first occupancy, certain alterations may be required under the Fair Housing Act if requested by a resident as a reasonable accommodation or modification or otherwise required to remediate accessibility deficiencies in the design and construction of the building.

Under HUD's Section 504 regulation, alterations include any structural change in a facility or a change to its permanent fixtures or equipment. If alterations are undertaken to a project that has fifteen or more units and the cost of the alterations is 75% or more of the replacement cost of the completed facility, this qualifies as "substantial alterations," in which the new construction provisions of 24 C.F.R. § 8.22 apply.<sup>113</sup>

When alterations are made that do not qualify as substantial alterations, alterations to dwelling units in a multifamily housing project shall, to the maximum extent feasible, be made to be readily accessible to and usable by individuals with disabilities.<sup>114</sup> If alterations of single elements or spaces of a dwelling unit, when considered together, amount to an alteration of a dwelling unit, the entire dwelling unit shall be made accessible. Once 5% of the dwelling units in a housing project are readily accessible to and usable by individuals with mobility impairments, no additional elements of dwelling units or entire dwelling units are required to be accessible under this provision. However, alterations to meet ongoing accessibility needs are always required, for example, in response to a reasonable accommodation request. Alterations to common areas or parts of facilities that affect accessibility of existing housing facilities shall, to the maximum extent feasible, be made to be accessible to and usable by individuals with disabilities. For purposes of this paragraph, the phrase "to the maximum extent feasible" shall not be interpreted as requiring that a recipient (including a PHA) make a dwelling unit, common area, facility or element thereof accessible if doing so would impose undue financial and administrative burdens on the operation of the multifamily housing project.<sup>115</sup>

All altered facilities covered by Titles II or III of the ADA must be altered in accordance with the U.S. Department of Justice's 2010 ADA Standards for Accessible Design and applicable ADA

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<sup>113</sup> See 24 C.F.R. § 8.23(a). The sole exception is that load bearing structural members are not required to be removed or altered.

<sup>114</sup> HUD may require a higher number or percentage of accessible units pursuant to 24 C.F.R. § 8.22(c) and 24 C.F.R. § 8.23(b)(2).

<sup>115</sup> 24 C.F.R. § 8.23(b).



regulations, unless subject to certain safe harbors identified in the 2010 ADA revised regulations for Titles II and III, as applicable.<sup>116</sup>

HUD will consider on a case-by-case basis a PHA's request to undertake limited new construction on the site of a Covered Project undergoing rehabilitation to comply with accessibility requirements on the site.

#### Additional Accessibility Requirements for Both New Construction and Alterations

Accessible units must be distributed throughout projects and sites and be available in a sufficient range of sizes and amenities so that a qualified individual with disabilities' choice of living arrangements is, as a whole, comparable to that of other persons eligible under the same program.<sup>117</sup> This provision shall not be construed to require provision of an elevator in any multifamily housing project solely for the purpose of permitting location of accessible units above or below the accessible grade.

PHAs are encouraged to use universal design principles, visitability principles and active design guidelines in planning new construction or retrofit work, wherever feasible. However, adherence to universal design principles does not replace compliance with the accessibility requirements of Section 504, the ADA and the Fair Housing Act.

#### Program Accessibility Requirements

Under Section 504, recipients must operate each existing housing program or activity receiving Federal financial assistance so that the program or activity, when viewed in its entirety, is accessible to and usable by individuals with disabilities. Title II of the ADA also includes a program access requirement, while Title III of the ADA requires readily achievable barrier removal.<sup>118</sup> Further, Section 504, the Fair Housing Act, and the ADA require that reasonable accommodations/modifications be granted to address disability-related needs of individuals with disabilities.<sup>119</sup>

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<sup>116</sup> See <http://www.ada.gov/regs2010/2010ADASTandards/2010ADASTandards.htm>.

<sup>117</sup> See 24 C.F.R. §§ 8.26 and 8.27.

<sup>118</sup> See 28 C.F.R. § 35.150; 28 C.F.R. § 36.304.

<sup>119</sup> For more information on reasonable accommodations, see the HUD/DOJ Joint Statement on Reasonable Accommodations Under the Fair Housing Act at <http://portal.hud.gov/hudportal/documents/huddoc?id=JOINTSTATEMENT.PDF>. While this joint statement focuses on the Fair Housing Act, the principles discussed in the statement generally apply to requests for reasonable accommodation under Section 504, except, for purposes of Section 504, HUD recipients are required to provide and pay for structural modifications as a reasonable accommodation.



## **APPENDIX II: Recommended Relocation Plan Contents**

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While RAD mandates written relocation plans only for projects which involve permanent relocation (including, without limitation, a move in connection with a transfer of assistance) or temporary relocation anticipated to last longer than one year, HUD strongly encourages PHAs to document their relocation planning process and procedures in a written relocation plan. The following provides suggested content for required and recommended relocation plans. In the case of any discrepancy between this description of the recommended relocation plan contents and the provisions of the Notice to which this Appendix is attached or any applicable laws or regulations with respect to the URA or Section 104(d), the provisions of the Notice or applicable laws and regulations shall govern.

The basic elements of the relocation plan include:

- A general description of the project and project elements that may create relocation needs;
- Information on residents of the project and eligibility for relocation assistance and payments;
- Information regarding how the project will address the RAD right to return requirements and the project's re-occupancy policies;
- A detailed discussion of plans for temporary relocation assistance;
- A detailed discussion of any transfer of assistance;
- A detailed discussion of any offers of alternative housing options and plans for voluntary permanent relocation assistance;
- A detailed discussion of compliance with fair housing and civil rights requirements, including accessibility requirements;
- The relocation budget; and
- The appeals process.

The plan as a whole should discuss the specific steps to be taken to minimize the adverse impacts of relocation on the residents.

### **I. Project Summary**

The Relocation Plan should provide a general description of the property (e.g., year built, location, number of units, configuration, resident population served). The project summary should also identify the nature of the activities to be undertaken, including acquisition, demolition, rehabilitation, and construction activities and additional detail regarding the project scope (e.g., gut rehab, systems replacement, modest in-unit renovations, transfer of assistance). The project summary should also discuss how any construction activities are to be implemented (i.e., vacate the property entirely, vacate specific floors or buildings, rehabilitation with residents in place). The summary should also discuss the overall theory of relocation, for example, whether a few households will be relocated off-site and the vacant units will be used as temporary housing before other households move back to their original units (a "hoteling" approach), or whether the vacant units will be permanently occupied, with the residents vacating other units to be renovated (a "domino" approach).

The relocation plan should also identify the funding sources which may trigger relocation requirements, with particular attention to the potential presence of HOME or CDBG funds which may trigger Section 104(d) requirements.

## **II. Project Occupancy**

The Relocation Plan should provide information on occupancy of the property including the number of residents, their household type (family, elderly), any non-residential (commercial) occupants, and should identify how any routine needs (such as continuation of utilities such as telephone service) and civil rights compliance issues (for example, limited English proficiency, disabilities, reasonable accommodations and unit modifications that have been or may be necessary) shall be identified and addressed. The Relocation Plan may specify the community meetings, interviews and/or other processes that will be undertaken to assess the residents' needs.

The Relocation Plan should also address eligibility for relocation assistance and payments, applying the rules of the Notice to the particularities of the project.

## **III. Resident Return and Re-occupancy Policies**

The Plan should address how the project will honor the RAD right to return requirements and the “no re-screening upon conversion” policy. With respect to residents who will be temporarily relocated, the Plan should include the methodology that will be used to determine the sequence in which residents will re-occupy units at the project after rehabilitation, demolition, and/or construction is completed, and to determine how residents are matched with units if the residents are not able to return to their original unit. For example, if units will come online in stages, the plan should outline how the PHA or Project Owner will determine when each resident will return to the property.

## **IV. Temporary Relocation Assistance**

The plan should detail the temporary housing resources to be used, the anticipated duration of temporary relocations, notices to be provided and the temporary relocation assistance the PHA or Project Owner will provide for residents (Paragraph 2-7 of HUD Handbook 1378). Topics to be addressed in the Plan include:

- Temporary Housing Resources. The Plan should identify the nature and availability of the temporary housing resources the PHA or Project Owner anticipates using. On-site resources are generally preferred. However, in some cases, PHAs or Project Owners may need to use hotel rooms for short-term relocations, or market-rate apartments. If the PHA or Project Owner anticipates using other assisted housing resources (such as HCVs, public housing or other properties with regulatory restrictions), the PHA or Project Owner should take particular care to address regulatory issues.
- Allocation of Temporary Relocation Resources. The Plan should describe a fair and reasonable methodology for allocating temporary relocation housing to residents on a nondiscriminatory basis.
- Duration of Temporary Relocation. In the event that the Plan includes relocation which is anticipated to exceed one year, it should detail the requirements which apply to those

residents (such as the issuance of a *Notice of Relocation* to the resident covering eligibility for URA relocation assistance, the offer of permanent relocation assistance and payments at URA levels and, if conditions warrant, the subsequent issuance of a *Notice of Eligibility*) as distinct from requirements that apply to residents who are not relocated for more than one year.

- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
  - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
  - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
  - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
  - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses. The PHA or Project Owner can choose to do one or more of the following:
    - Undertake the moves itself, using employees of the PHA or Project Owner or “force account labor”<sup>120</sup>
    - Use a contractor or moving company
    - Reimburse residents for all actual, reasonable and necessary moving expenses.
- Storage. The Plan should address whether storage of the resident’s personal property is necessary and the arrangements for such storage.
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Out-of-Pocket Expenses. The nature of out of pocket expenses vary based on the nature of the temporary relocation moves. For example, hotel stays or in-place renovation may trigger the need for reimbursement of meals while a kitchen is unavailable. The Plan should outline the anticipated out-of-pocket expenses and the PHA’s or Project Owner’s plans and budget with respect to these expenses.
- Leasing Arrangements. The Plan should address whether the resident will have a direct lease or other contractual relationship with the owner of the temporary relocation resource or whether the PHA or Project Owner will hold the lease and the resident will maintain a contractual relationship with the PHA or Project Owner.
- Utility Costs. The Plan should address whether residents will need to disconnect and reconnect necessary utilities and, if so, how the PHA or Project Owner anticipates managing this process and any associated expenses. Necessary utilities may include telephone, cable service, Internet access or other items. The Plan should address payment of utility deposits, if required at the temporary relocation housing (HUD Handbook 1378, paragraph 2-7(A)(3)).

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<sup>120</sup> Defined at 24 C.F.R. 905.108.

- Reasonable Accommodations. The plan should address whether residents with disabilities will require reasonable accommodations during temporary relocation and, if so, how the PHA or Project Owner anticipates ensuring the provision of reasonable accommodations and any associated expenses. Reasonable accommodations may include, among other items, the provision of transportation assistance, relocation to locations which are physically accessible and located near public transportation, and modifications to policies to allow individuals with disabilities to reside with a live-in aide.

## **V. Transfer of Assistance**

Relocation planning in the context of transfer of assistance is particularly complex. The PHA should address how RAD, URA and Section 104(d) requirements each apply, as the same activity may be treated differently under each regulatory framework. The Plan should specifically outline the PHA's procedures to ensure that the applicable requirements are applied to each situation appropriately. The Plan should also address whether relocation is required for any businesses or residents at the destination site. Finally, the Plan should address whether two moves – from the public housing site to an intermediate site and then to the transfer of assistance site – are necessary while the Covered Project is being constructed or rehabilitated.

## **VI. Alternative Housing Options and Voluntary Permanent Relocation Assistance**

If the PHA or Project Owner seeks to offer alternative housing options, the Plan should identify those options and the manner in which they are presented to residents for decision. The plan should also outline the counseling the PHA or Project Owner will provide to assist the residents in determining what options may be available and the financial implications of those options, for example,

1. Discussion of whether units available in the market (either in the affordable market or the unrestricted market) will meet the financial and dwelling requirements of relocated residents;
2. The general area or location of unit(s);
3. Where applicable, the accessibility of such units for individuals with disabilities;
4. Criteria for receiving relocation assistance; and
5. Any other information that might benefit residents in their consideration of housing choices.

The Plan should identify how the PHA or Project Owner will work with any residents who have elected voluntary permanent relocation. The Plan should further include a description of the permanent relocation assistance the PHA or Project Owner will provide to such residents. Topics to be addressed in the Plan include:

- Replacement Housing. The Plan should address the availability of comparable replacement housing, the notices to be provided and the provisions to ensure that appropriate accessibility features are available in compliance with applicable laws and regulations.

- Fair housing considerations. The Plan should address referrals to housing not located in areas of minority concentration and compliance with requirements regarding accessible housing for persons with disabilities. The Plan should address how the PHA or Project Owner will determine if residents have paid for the acquisition and/or installation of accessible features in the housing from which they are being relocated and how the PHA or Project Owner will ensure that the replacement housing contains required and comparable accessible features or that the resident is appropriately compensated for the cost of acquiring and/or installing required and comparable accessible features.
- Packing and Moving Assistance. The Plan should address how the PHA or Project Owner intends to provide or reimburse for packing and moving services and expenses. Considerations the Plan may want to address include:
  - Instructions and supplies (e.g., boxes, markers, tape) to be provided if residents prefer to pack their own personal possessions and items of value;
  - Assistance in packing to be provided if residents need assistance or prefer not to pack their personal possessions;
  - Guidance on how residents request to pack their own possessions or to receive packing assistance; and
  - How the PHA or Project Owner intends to provide or reimburse for moving services and expenses consistent with 49 C.F.R. § 24.301 or, at the resident's option, 49 C.F.R. § 24.302.
- Storage. The Plan should address whether storage of the resident's personal property is necessary and the arrangements for such storage. See 49 C.F.R. § 24.301(g)(4).
- Damage or Loss. The Plan should address Insurance for the replacement value of the property in connection with the move and necessary storage and/or the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his or her agent, or employee) where insurance covering such loss, theft, or damage is not reasonably available.
- Dislocation Allowance. The Plan should address when the resident is entitled to a dislocation allowance and the amount of such dislocation allowance, consistent with the URA Fixed Residential Moving Cost Schedule available at: [www.fhwa.dot.gov/real\\_estate/uniform\\_act/relocation/moving\\_cost\\_schedule.cfm](http://www.fhwa.dot.gov/real_estate/uniform_act/relocation/moving_cost_schedule.cfm).
- Appliances. The Plan should address disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property.
- Security Deposits and Utility Costs. The Plan should address how the PHA or Project Owner anticipates managing transfer of utility arrangements, security deposits and any associated expenses. Utilities may include telephone, cable service, Internet access or other items that may have been in place in the resident's original home. See 49 C.F.R. § 24.301(h)(12).
- Replacement Housing Payment. The Plan should address the circumstances in which displaced residents may be entitled to a replacement housing payment (RHP) to cover the

increase, if any, in monthly housing costs for a 42-month period pursuant to URA requirements or a 60-month period pursuant to Section 104(d).<sup>121</sup>

## VII. Relocation Budget

Based on the results of the planning process, the PHA or Project Owner should create a relocation budget that includes the following six components:

- 1) The cost of administering the plan and providing assistance and counseling.
- 2) Reasonable moving expenses for a person with disabilities, which may include the cost of moving assistive equipment that is the personal property of the residents, the furnishings and personal belonging of a live-in aide, and/or other reasonable accommodations (HUD Handbook 1378, Paragraph 3-2).
- 3) The cost of the physical move of the residents' belongings. (It is suggested that the move costs be broken down by average cost per move type multiplied by the number of moves.) This physical move cost total should be based on the move scenarios anticipated or projected by the resident survey. The move costs should consider:

For temporary relocation moves:

- Number and cost of two-way moves (i.e., a move to another unit and then a return move) within the same building/complex.
- Number and cost of two-way moves to a unit not in the same building/complex

For permanent moves:

- Number and cost of one-time moves into another unit in the same building/complex.
  - Number and cost of one permanent move to a unit not within the same building/complex
  - Any required dislocation allowance
- 4) The estimated cost of projected increases in monthly housing costs and other expenses for temporary relocation (if applicable).
  - 5) The estimated cost of projected replacement housing payments (RHP) (42-month period for URA or 60-month period if Section 104(d) applies).
  - 6) Contingency costs estimated for carrying out the relocation process necessary to complete the proposed project.

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<sup>121</sup> See also, CPD Notice 2014-09 "Effective Date of Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) Changes to Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) Payment Limits and Replacement Housing Payment Eligibility Criteria."

### **VIII. Written and Oral Communications with Individuals with Disabilities and LEP Persons and Use of Accessible Meeting Locations**

The Plan should identify how the PHA or Project Owner will take appropriate steps to ensure effective communication with residents and other individuals with disabilities involved in the relocation, such as through the provision of sign language and other interpreters and large print, Braille, accessible electronic, and other alternate format written communications. The Plan should identify the measures to be taken to ensure the most integrated meeting settings appropriate to individuals with disabilities. The Plan should identify how the PHA or Project Owner will ensure meaningful access for LEP persons, such as through written materials and oral communications provided in languages other than English.

### **IX. Appeal Process**

The Plan should specify the procedures to be followed if a resident disagrees with the PHA's or Project Owner's decision as to the resident's eligibility to receive relocation assistance, the amount of a relocation payment, or the adequacy of a comparable replacement dwelling offered to a resident. These procedures should include the process for filing a written appeal to the displacing agency and the specific appeal procedures to be followed consistent with 49 C.F.R. 24.10 (and 24 C.F.R. § 42.390 if Section 104(d) is involved).

### **X. Certification**

The Plan should contain a certification of compliance with this Notice (or H 2014-09/PIH 2014-17, if applicable), the URA, fair housing and civil rights requirements and, if applicable, Section 104(d).

### **Technical Assistance**

For detailed technical assistance regarding the contents or provisions of a written relocation plan, the PHA or Project Owner should direct questions to their RAD Transaction Manager or email [rad@hud.gov](mailto:rad@hud.gov).