

Part I of the Agreement to Enter into a Section 811 Rental Assistance Contract

OMB Approval No. 2502-XXXXX
(exp. XX/XX/XXXX)

For use under Section 811 of the National Affordable Housing Act

PRA Project No.:	811 PRA Contract Number:	FHA Project No. (if applicable):	
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This Agreement to Enter into a Section 811 Rental Assistance Contract (Agreement) is entered into between the _____ (Grantee) and _____ (Owner). The

Owner proposes to complete a housing project or commit an existing housing project as described in the approved Application. Upon the acceptable completion of the project or start-up of the Section 811 Project Rental Assistance (PRA) Program, the Owner and Grantee will enter into a Section 811 Rental Assistance Contract (Contract) for the purpose of making rental assistance payments to enable eligible Extremely Low-Income Households to occupy units in the project.

1.1 Significant Dates, Contents, and Scope of Agreement.

(a) **Effective Date of Agreement:**(mm/dd/yyyy) _____ .

(b) **Contents of Agreement.** This Agreement consists of Part I and the following exhibits:

- (1) Exhibit A: Rental Assistance Contract, Part I and II (HUD-92235-PRA and HUD-92237-PRA) to be executed upon acceptable completion of the project or start-up of the Section 811 PRA Program.
- (2) Exhibit B: The schedule of Davis-Bacon wage rates, if applicable.
- (3) Additional Exhibits: Specify additional exhibits, if any. If none, insert "None."

(c) **Scope of Agreement.** This Agreement, including the exhibits, whether attached or incorporated by reference, comprises the entire agreement between the Owner and Grantee with respect to the matters contained in it. Neither party is bound by any representations or agreements of any kind except as contained in this Agreement, any applicable regulations, and agreements entered into in writing by the parties which are consistent with this Agreement. Nothing contained in this Agreement shall create or affect any relationship between Grantee and any contractors or subcontractors employed by the Owner in the completion of the project.

1.2 Grantee Assurance. The approval of this Agreement by Grantee is an assurance by the Grantee to the Owner that:

- (a) The faith of the Grantee is solemnly pledged to the payment of rental assistance payments pursuant to the Contract, and
- (b) HUD has obligated funds for these payments.



Grantee

Signature

By

Name_____
Official Title_____
Date (mm/dd/yyyy)**Owner**

Signature

By

Name_____
Official Title_____
Date (mm/dd/yyyy)

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information collection is necessary to ensure that viable projects are developed. It is important to obtain information from applicants to assist HUD in determining if nonprofit organizations initially funded continue to have the financial and administrative capacity needed to develop a project and that the project design meets the needs of the residents. The Department will use this information to determine if the project meets statutory requirements with respect to the development and operation of the project, as well as ensuring the continued marketability of the projects. This information is required in order to obtain benefits. This information is considered non-sensitive and no assurance of confidentiality is provided.

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)

Part I of the Rental Assistance Contract

Section 811 Project Rental Assistance (PRA Demo)
Demonstration

U.S. Department of Housing
and Urban Development
Office of Housing
Federal Housing Commissioner

OMB Approval No. 2502-XXXXX
(exp. XX/XX/XXXX)

Public reporting burden for this collection of information is estimated to average 40 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information collection is necessary to ensure that viable projects are developed. It is important to obtain information from applicants to assist HUD in determining if nonprofit organizations initially funded continue to have the financial and administrative capacity needed to develop a project and that the project design meets the needs of the residents. The Department will use this information to determine if the project meets statutory requirements with respect to the development and operation of the project, as well as ensuring the continued marketability of the projects. This information is required in order to obtain benefits. This information is considered non-sensitive and no assurance of confidentiality is provided.

PRA Project Number:	811 PRA Contract Number:	FHA Project Number (if applicable):
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This Rental Assistance Contract (RAC) is entered into by and between _____
(Grantee), and _____ (Owner Legal Name), for rental assisted units at
_____ (Project Name)).

Statutory and Administrative Authority. Section 811 of the Cranston-Gonzalez National Affordable Housing Act of 1990, 42.U.S.C. 8013, as amended by the Frank Melville Supportive Housing Investment Act of 2010, Pub. L. No. 111-374; the Department of Housing and Urban Development Act, 42 U.S.C. 3531, *et seq*, and pursuant to the applicable HUD administrative and regulatory requirements.

Purpose. The purpose of this Contract is to provide Project Rental Assistance Payments on behalf of Eligible Families leasing Decent, Safe and Sanitary Assisted Units from the Owner.

1.1 Significant Dates and Other Items; Contents and Scope of Contract.

- (a) **Effective Date of Contract:** _____,
- (b) **Fiscal Year.** The ending date of each Fiscal Year shall be _____.
(Insert March 31, June 30, September 30, or December 31, as approved by HUD.) The Fiscal Year for the project shall be the 12-month period ending on this date. However, the first Fiscal Year for the project is the period beginning with the effective date of the Contract and ending on the last day of the Fiscal Year which is not less than 12 months after the effective date. If the first Fiscal Year exceeds 12 months, the maximum total annual rental assistance payment in section 1.1(c) will be adjusted by the addition of the pro rata amount applicable to the period of operation in excess of 12 months.
- (c) **Maximum Annual Contract Commitment.**
- (d) **Project Address/Description:** Include the projects street address, city, county, state and zip code, block and lot number (if known), and any other information necessary to clearly designate the covered project:
- (e) **Statement of Services, Maintenance and Utilities Provided by the Owner:**

(1) Services and Maintenance:

(2) Equipment:

(3) Utilities:

(4) Other:

(f) **Contents of Contract.** This Contract consists of Part I, Part II and the following Exhibits:

- (1) Exhibit 1: The schedule showing the number of units by size (Contract Units) and their applicable rents (Contract Rents).
- (2) Exhibit 2: iREMS Data Record
- (3) Exhibit 3: Grantee Affirmative Fair Housing Marketing Plan
- (4) Exhibit 4: Use Agreement, HUD-92238-PRA
- (5) Exhibit 5: Lease, HUD-92236-PRA
- (6) Exhibit 6. Definitions
- (7) Exhibit 7: Program Guidelines

Additional exhibits (Specify additional exhibits, if any, such as Special Conditions for Acceptance. If none, insert "None"):

(g) **Scope of Contract.** This Contract, including the Exhibits, whether attached or incorporated by reference, comprises the entire agreement between the Owner and the Grantee with respect to the matters contained in it. Neither party is bound by any representations or agreements of any kind except as contained in this Contract, any applicable regulations, and agreements entered into in writing by the parties which are not inconsistent with this Contract.

1.2 Term of Contract, Obligation to Operate Project for Full Term.

- (a) **Term of Contract.** The term of this Contract for any unit shall be _____ years. (Note: Minimum contract term shall be 20 years).
- (b) **Obligation to Operate Project for Full Term.** The Owner agrees to continue operation of the Assisted Units within the project in accordance with this Contract for the full term specified in paragraph (a).

1.3 Grantee Assurance.

- (a) Grantee has or will receive funds from HUD, pursuant to Section 811 of the Cranston-Gonzalez National Affordable Housing Act of 1990, as amended, and subject to appropriations, will provide Project Rental Assistance Payments for the Assisted Units.
- (b) Consistent with the Cooperative Agreement between HUD and the Grantee, Grantee shall provide Project Rental Assistance Payments for Assisted Units to the Eligible Multifamily Owner, as identified under this Contract.

1.4 No Recourse Provision.

(a) In the event HUD cancels the Cooperative Agreement with the Grantee of the Grantee cancels the Rental Assistance Contract in accordance with the provisions of the RAC, the Owner agrees that it shall have no financial or legal recourse against the grantee.”

Warning: 18 U.S.C. 1001 provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

Signature Page

Name of Owner (Print)

By: _____
Signature of authorized representative

Name (Print) _____

Official Title (Print) _____

Date: _____

Grantee
By: _____
Signature of authorized representative

Name (Print) _____

Official Title (Print) _____

Date: _____

Exhibit 1

Schedule of Contract Units and Contract Rents ¹

Number of Contract Units	Number of Bedrooms	Contract Rent	Utility Allowance	Gross Rent	Maximum Annual Contract Commitment (Number of Contract Units x Gross Rent)

Total Maximum Annual Contract Commitment: _____

¹ This Exhibit must be completed and attached to the Contract at the time the Agreement is executed. It may, however, be amended in accordance with program rules before the Contract is executed.

Exhibit 2

This Exhibit shows the initial and subsequent amounts of Contract and budget authority obligated for Project Number:
_____.

Contract Authority

As of the Effective Date of Agreement _____

Effective Date of Agreement Amendment: _____ Show Increase or Decrease _____
Revised Total _____

Effective Date of Agreement Amendment: _____ Show Increase or Decrease _____
Revised Total _____

As of the Effective Date Contract _____

Effective Date of Agreement Amendment: _____ Show Increase or Decrease _____
Revised Total _____

Effective Date of Contract Amendment: _____ Show Increase or Decrease _____
Revised Total _____

Exhibit 3

Affirmative Fair Housing Marketing Plan

Exhibit 4

Use Agreement

Exhibit 5

Lease

Exhibit 6

Definitions

811 Project Rental Assistance Lease

SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES

This agreement made and entered into this (A) day of _____, 20 , between (B) as LANDLORD, and (C) as Tenant.

WITNESSETH:

WHEREAS, the LANDLORD is a multifamily property receiving federal project-based rental assistance pursuant to Section 811 of the Cranston-Gonzalez National Affordable Housing Act, as amended by the Frank Melville Supportive Housing Act of 2010.

WHEREAS, the LANDLORD has entered into a Rental Assistance Contract (RAC) with the State Housing Agency (SHA).

WHEREAS, pursuant to a Cooperative Agreement between HUD and the SHA, the SHA agrees to disburse Section 811 Rental Assistance (PRA) funds to the Landlord, conditioned on the LANDLORD limiting occupancy, based upon a SHA agreed specified number of PRA units, to extremely low income persons with disabilities as defined in Section 811 of the National Affordable Housing Act and applicable HUD regulations under criteria for eligibility of TENANTS for admission to assisted units and conditions of continued occupancy in accordance with the terms and provisions of the RAC and

NOW THEREFORE,

1.

1. The LANDLORD leases to the TENANT, and the TENANT leases from the LANDLORD dwelling unit number (D) located at (E) for a term of one year commencing on the day of (F) , 20 , and ending on the day of (G) , 20

2. The total rent (Contract Rent) shall be \$ (H) per month.

3. The total rent specified in Paragraph 2, above, shall include the following utilities:

 (I)

(If the total rent includes all utilities, enter "ALL"; where TENANTS pay some or all utilities, enter the following additional paragraph as 3a.)

The total rent stipulated herein does not include the cost of the following utility service(s), for which the Utility Allowance is \$ (J) .

 (K)

Charges for such service(s) are to be paid directly by the TENANT to the utility company/companies providing such service(s). If the Utility Allowance exceeds the required TENANT's share of the total housing expense per State-approved schedule and criteria, the LANDLORD shall pay the TENANT the amount of such excess on behalf of the Government upon receipt of funds from HUD for that purpose.

4. Of the total rent, \$ (L) shall be payable by or at the direction of HUD as rental assistance payments on behalf of the TENANT, and \$ (M) shall be payable by the TENANT. These amounts shall be subject to change by reason of changes in requirements, changes in the TENANT's family income, family composition or extent of exceptional medical or other unusual expenses in accordance with HUD-established schedules and criteria; or by reason of adjustment by SHA of any applicable Utility Allowance. Any such change shall be effective as of the date stated in a Notice to the TENANT.

5. The TENANT's share of the rent shall be due and payable on or before the first day of each month at (N) to the LANDLORD, or to such other person or persons or at such places as the LANDLORD may from time to time designate in writing.

6. A security deposit in an amount equal to one month's total TENANT payment or \$50, whichever is greater, may be collected at the time of execution of this Agreement. Accordingly, TENANT hereby makes a deposit of \$ (O) against any damage except reasonable wear done to the premises by the TENANT, his/her family, guests, or agents; and agrees to pay when billed the full amount of any such damage in order that the deposit will remain intact. Upon termination of this Lease, the deposit amount listed in this paragraph is to be refunded to the TENANT or to be applied to any such damage or any rent delinquency. The LANDLORD shall comply with all State and local laws regarding interest payments on security deposits.

7. The LANDLORD shall not discriminate against the TENANT in the provision of services or in any other manner on the grounds of race, color, creed, religion, sex, familial status, national origin, or disability.

8. Unless terminated or modified as provided herein, this Agreement shall be automatically renewed for successive terms of One month each at the aforesaid rental, subject to adjustment as herein provided.

(a) The TENANT may terminate this Agreement at the end of the initial term or any successive term by giving 30 days written notice in advance to the LANDLORD. Whenever the LANDLORD has been in material noncompliance with this Agreement, the TENANT may in accordance with State law terminate this Agreement by so advising the LANDLORD in writing.

(b) The LANDLORD's right to terminate this Agreement is governed by the regulation of the Secretary of HUD at Title 24, Part 5, Subpart I and Part 247 (herein referred to as the HUD Regulation). The HUD Regulation provides that the LANDLORD may terminate this Agreement only under the following circumstances:

(1) The LANDLORD may terminate, effective at the end of the initial term or any successive term, by giving the TENANT notification in the manner prescribed in paragraph (g) below that the term of this Agreement is not renewed and this Agreement is accordingly terminated. This termination must be based upon either material noncompliance with this Agreement, material failure to carry out obligations under any State landlord or tenant act, or criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; any criminal activity that threatens the health or safety of any on-site project management staff responsible for managing the premises, or any drug-related criminal activity on or near such premises, engaged in by a resident, any member of the resident's household or other person under the resident's control; or other good cause. When the termination of the tenancy is based on other good cause, the termination notice must be effective, at the end of the lease term, but in no case earlier than 30 days after receipt of the notice by the TENANT. Where the termination notice is based on material noncompliance with this Agreement or material failure to carry out obligations under a State landlord and tenant act, the time of service shall be in accordance with the previous sentence or State law, whichever is later.

(2) Notwithstanding subparagraph (1), whenever the TENANT has been in material noncompliance with this Agreement, the LANDLORD may, in accordance with State law and the HUD Regulation, terminate this Agreement by notifying the TENANT in the manner prescribed in paragraph (g) below.

(c) If the TENANT does not vacate the premises on the effective date of the termination of this Agreement, the LANDLORD may pursue all judicial remedies under State or local law for the eviction of the TENANT, and in accordance with the requirements in the HUD Regulation.

(d) The term "material noncompliance with this Agreement" shall, in the case of the TENANT, include (1) one or more substantial violations of this Agreement, (2) repeated minor violations of this Agreement which disrupt the livability of the project, adversely affect the health or safety of any person or the right of any tenant to the quiet enjoyment of the leased premises and related project facilities, interfere with the management of the project or have an adverse financial effect on the project, (3) failure of the TENANT to timely supply all required information on the income and composition, or eligibility factors of the TENANT household (including failure to meet the disclosure and verification requirements for Social Security Numbers, as provided by 24 CFR Part 5, Subpart B or knowingly providing incomplete or inaccurate information). Nonpayment of rent or any other financial obligation due under this Agreement (including any portion thereof) beyond any grace period permitted under State law shall constitute a substantial violation. The payment of rent or any other financial obligation due under this Agreement after the due date but within any grace period permitted under State law shall constitute a minor violation.

(e) The conduct of the TENANT cannot be deemed other good cause unless the LANDLORD has given the TENANT prior notice that said conduct shall henceforth constitute a basis for termination of this

Agreement. Said notice shall be served on the TENANT in the manner prescribed in paragraph (g) below.

(f) The LANDLORD's determination to terminate this Agreement shall be in writing and shall (1) state that the Agreement is terminated on a date specified therein, (2) state the reasons for the LANDLORD's action with enough specificity so as to enable the TENANT to prepare a defense, (3) advise the TENANT that if he or she remains in the leased unit on the date specified for termination, the LANDLORD may seek to enforce the termination only by bringing a judicial action at which time the TENANT may present a defense, (4) advise the persons with disabilities have the right to request reasonable accommodations to participate in the hearing process and (5) be served on the TENANT in the manner prescribed by paragraph (g) below. .

(g) The LANDLORD's termination notice shall be accomplished by (1) sending a letter by first class mail, cc'ing the SHA and the individual listed on the Supplement to Application for Federally Assisted Housing (Form HUD-92006), if any, properly stamped and addressed, to the TENANT at his/her address at the project, with a proper return address, and (2) serving a copy of said notice on any adult person answering the door at the leased dwelling unit, or if no adult responds, by placing the notice under or through the door, if possible, or else by affixing the notice to the door. Service shall not be deemed effective until both notices provided for herein have been accomplished. The date on which the notice shall be deemed to be received by the TENANT shall be the date on which the first class letter provided for in clause (1) herein is mailed, or the date on which the notice provided for in clause (2) is properly given, whichever is later.

(h) The LANDLORD may, with the review of the SHA and prior approval of HUD, modify the terms and conditions of the Agreement, effective at the end of the initial term or a successive term, by serving an appropriate notice on the TENANT, together with the tender of a revised Agreement or an addendum revising the existing Agreement. Any increase in rent shall, in all cases, be governed by **24 CFR Part 245, and other applicable HUD regulations**. This notice and tender shall be served on the TENANT (as defined in paragraph (g)) at least 30 days prior to the last date on which the TENANT has the right to terminate the tenancy without being bound by the codified terms and conditions. The TENANT may accept it by executing the tendered revised agreement or addendum, or may reject it by giving the LANDLORD written notice at least 30 days prior to its effective date that he/she intends to terminate the tenancy. The TENANT's termination notice shall be accomplished by sending a letter by first class mail, properly stamped and addressed to the LANDLORD at his/her address.

(i) The LANDLORD may terminate this Agreement for the following reasons:

1. drug related criminal activity engaged in on or near the premises, by any TENANT, household member, or guest, and any such activity engaged in on the premises by any other person under the tenant's control;

2. determination made by the LANDLORD that a household member is illegally using a drug;

3. determination made by the LANDLORD that a pattern of illegal use of a drug interferes with the health, safety, or right to peaceful enjoyment of the premises by other residents;

4. criminal activity by a tenant, any member of the TENANT'S household, a guest or another person under the TENANT'S control:

(a) that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including property management staff residing on the premises); or

(b) that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises;

5. if the TENANT is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees, or that in the case of the State of New Jersey, is a high misdemeanor; or

6. if the TENANT is violating a condition of probation or parole under Federal or State law;

7. determination made by the LANDLORD that a household member's abuse or pattern of abuse of alcohol threatens the health, safety, or right to peaceful enjoyment of the premises by other residents;

8. if the LANDLORD determines that the tenant, any member of the TENANT'S household, a guest or another person under the TENANT'S control has engaged in criminal activity, regardless of whether the tenant, any member of the tenant's household, a guest or another person under the tenant's control has been arrested or convicted for such activity.

9. TENANT agrees that the family income, family composition and other eligibility requirements shall be deemed substantial and material obligations of his/her tenancy with respect to the amount of rental he/she will be obligated to pay and his/her right of occupancy, and that a recertification of income shall be made to the LANDLORD annually from the date of this lease in accordance with HUD regulations and requirements.

10. TENANT agrees that the TENANT's share of the monthly rental payment is subject to adjustment by the LANDLORD to reflect income changes which are disclosed on any of TENANT's recertification of income, and TENANT agrees to be bound by such adjustment. LANDLORD agrees to give 30 days written notice of any such adjustment to the TENANT, by an addendum to be made a part of this lease, stating the amount of the adjusted monthly rental which the TENANT will be required to pay.

11. The TENANT shall not assign this lease, sublet the premises, give accommodation to any roomers or lodgers, or permit the use of the premises for any purpose other than as a private dwelling solely for the TENANT and his/her family. The TENANT agrees to reside in this unit and agrees that this unit shall be the TENANT's and his/her family's only place of residence.

12. TENANT agrees to pay the LANDLORD any rental which should have been paid but for (a) TENANT's misrepresentation in his/her initial income certification or recertification, or in any other information furnished to the LANDLORD or (b) TENANT's failure to supply income recertification when required or to supply information requested by the LANDLORD.

13. TENANT for himself/herself and his/her heirs, executors and administrators agrees as follows:

(a) To pay the rent herein stated promptly when due, without any deductions whatsoever, and without any obligation on the part of the LANDLORD to make any demand for the same;

(b) To keep the premises in a clean and sanitary condition, and to comply with all obligations imposed upon TENANTS under applicable provisions of building and housing codes materially affecting health and safety with respect to said premises and appurtenances, and to save the LANDLORD harmless from all fines, penalties and costs for violations or noncompliance by TENANT with any of said laws, requirements or regulations, and from all liability arising out of any such violations or noncompliance.

(c) Not to use premises for any purpose deemed hazardous by insurance companies carrying insurance thereon;

(d) That if any damage to the property shall be caused by his/her acts or neglect, the TENANT shall forthwith repair such damage at his/her own expense, and should the TENANT fail or refuse to make such repairs within a reasonable time after the occurrence of such damage, the LANDLORD may, at his/her option, make such repairs and charge the cost thereof to the TENANT, and the TENANT shall thereupon reimburse the LANDLORD for the total cost of the damages so caused,

(e) To permit the LANDLORD, or his/her agents, or any representative of any holder of a mortgage on the property, or when authorized by the LANDLORD, the employees of any contractor, utility company, municipal agency or others, to enter the premises for the purpose of making reasonable inspections and repairs and replacements,

(f) Not to install a washing machine, clothes dryer, or air conditioning unit in the apartment without the prior approval of the LANDLORD; and

(g) To permit the LANDLORD or his/her agents to bring appropriate legal action in the event of a breach or threatened breach by the TENANT of any of the covenants or provisions of this lease.

14. The LANDLORD agrees to comply with the requirement of all applicable Federal, State, and local laws, including health, housing and building codes and to deliver and maintain the premises in safe, sanitary decent condition.

15. The TENANT, by the execution of this Agreement, admits that the dwelling unit described herein has been inspected by him/her and meets with his/her approval. The TENANT acknowledges hereby that said premises have been satisfactorily completed and that the LANDLORD will not be required to repaint, replaster, or otherwise perform any other work, labor, or service which it has already performed for the TENANT. The TENANT admits that he/she has inspected the unit and found it to be in good and tenantable condition, and agrees that at the end of the occupancy hereunder to deliver up and surrender said premises to the LANDLORD in as good condition as when received, reasonable wear and tear excepted.

16. No alteration, addition, or improvements shall be made in or to the premises without the prior consent of the LANDLORD in writing.

17. Reasonable Accommodations: The LANDLORD agrees to provide reasonable accommodation to an otherwise eligible tenant's disability, including making changes to rules, policies, or procedures, and making and paying for structural alterations to a unit or common areas. The Landlord is not required to provide accommodations that constitute a fundamental alteration to the Landlord's program or which would pose a substantial financial and administrative hardship. See the regulations at 24 CFR Part 8. In addition, if a requested structural modification does pose a substantial financial and administrative hardship, the Landlord must then allow the tenant to make and pay for the modification in accordance with the Fair Housing Act.

18. TENANT agrees not to waste utilities furnished by the LANDLORD; not to use utilities or equipment for any improper or unauthorized purpose, and not to place fixtures, signs, or fences in or about the premises without the prior permission of the LANDLORD in writing. If such permission is obtained, TENANT agrees, upon termination of the lease, to remove any fixtures, signs of fences, at the option of the LANDLORD, without damage to the premises.

19. This Agreement shall be subordinate in respect to any mortgages that are now on or that hereafter may be placed against said premises, and the recording of such mortgage or mortgages shall have preference and precedence and be superior and prior in lien to this Agreement, and the TENANT agrees to execute any such instrument without cost, which may be deemed necessary or desirable to further effect the subordination of this Agreement to any such mortgage or mortgages and a refusal to execute such instruments shall entitle the LANDLORD, or the LANDLORD's assigns and legal representatives to the option of canceling this Agreement without incurring any expense or damage, and the term hereby granted is expressly limited accordingly.

20. Failure of the LANDLORD to insist upon the strict performance of the terms, covenants, agreements and conditions herein contained, or any of them, shall not constitute or be construed as a waiver or

relinquishment of the LANDLORD's right thereafter to enforce any such term, covenant, agreement, or condition, but the same shall continue in full force and effect.

21. In return for the TENANT's continued fulfillment of the terms and conditions of this Agreement, the LANDLORD covenants that the TENANT may at all times, while this Agreement remains in effect, have and enjoy for his/her sole use and benefit the above described property.

22. Tenant Income Verification: The TENANT must promptly provide the LANDLORD with any information relating to the amount or verification of family income in accordance with HUD requirements.

23. Tenants' rights to organize: LANDLORD agrees to allow TENANT organizers to conduct on the property the activities related to the establishment or operation of a TENANT organization set out in accordance with HUD requirements.

24. Interim recertifications:

a. The TENANT agrees to advise the LANDLORD immediately if any of the following changes occur.

1. Any household member moves out of the unit.
2. Any adult member of the household who was reported as unemployed on the most recent certification or recertification obtains employment.
3. The household's income cumulatively increases by \$200 or more a month.

b. The TENANT may report any decrease in income or any change in other factors considered in calculating the Tenant's rent. Unless the LANDLORD has confirmation that the decrease in income or change in other factors will last less than one month, the LANDLORD will verify the information and make the appropriate rent reduction. However, if the TENANT'S income will be partially or fully restored within two months, the LANDLORD may delay the certification process until the new income is known, but the rent reduction will be retroactive and LANDLORD may not evict the TENANT for nonpayment of rent due during the period of the reported decrease and the completion of the certification process. The TENANT has thirty days after receiving written notice of any rent due for the above described time period to pay or the LANDLORD can evict for nonpayment of rent.

c. If the TENANT does not advise the LANDLORD of the interim changes concerning household members or increase in income, the TENANT may be subject to eviction. The LANDLORD may evict TENANT only in accordance with the time frames and administrative procedures set forth in HUD's regulations, handbooks and instructions on the administration of multifamily subsidy programs.

d. The TENANT may request to meet with the LANDLORD to discuss how any change in income or other factors affected his/her rent or assistance payment, if any. If the TENANT requests such a meeting,

the LANDLORD agrees to meet with the TENANT and explain how the TENANT'S rent or assistance payment, if any, was computed.

25. Attachments to the Agreement: The Tenant certifies that he/she has received a copy of the Agreement and the following attachments to the Agreement and understands that these attachments are part of the Agreement.

- a. Attachment No. 1 - Owner's Certification of Compliance with HUD's Tenant Eligibility and Rent Procedures, form HUD-50059
- b. Attachment No. 2 - Unit Inspection Report.
- c. Attachment No. 3 - House Rules (if any).
- d. Attachment No. 4 - Pet Rules (if any)
- e. Owner's Live-in Aide Addendum (if any)

WITNESS:

_____ (O) _____ LANDLORD

Date

By: _____

Date

_____ (O) _____ TENANT

Public reporting burden - HUD is not requesting approval of any burden hours for the model leases since use of leases are a standard business practice in the housing rental industry. This information is required to obtain benefits. The request and required supporting documentation are sent to HUD or the SHA for approval. The lease is a contract between the owner of the project and the tenant(s) that explains the terms for residing in the unit. Leases are a standard business practice in the housing rental industry. Owners are required to use the HUD model lease which includes terms normally covered by leases used in the housing rental industry plus terms required by HUD for the program under which the project was built and/or the program providing rental assistance to the tenants.

Part II of the Rental Assistance Contract

Section 811 Project Rental Assistance (PRA)

**U.S. Department of
Housing and Urban
Development**
Office of Housing
Federal Housing Commissioner

PRA Project Number:	811 PRA Contract Number	FHA Project Number (if applicable):
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2.1 OWNER'S RESPONSIBILITIES AND OWNER'S WARRANTIES.

(a) **Owner Responsibilities.** The Owner is Responsible for:

- 1) Performing all management and rental functions for the contract units.
- 2) Enforcing tenant obligations under the lease.
- 3) Paying for utilities and housing services (unless paid by the family under the lease)
- 4) (4) Collecting from the tenant:
 - (i) Security Deposit, if applicable.
 - (ii) The tenant rent.
 - (iii) Any charge for unit damage by the family allowed by state and federal law.

(b) **Owner Warranties.**

- 1) Legal Capacity. The Owner warrants that it has the legal right to execute this Contract and to lease Assisted Units covered by this Contract.
- 2) Completion of Work. The Owner warrants that the project as described in section 1.1 is Decent, Safe and Sanitary and, if applicable, that the Assisted Units comply with the terms and conditions of the Agreement to Enter into the Rental Assistance Contract.

2.2 FAMILIES TO BE HOUSED; GRANTEE ASSISTANCE.

(a) **Families to Be Housed.** The Assisted Units are to be leased by Eligible Families solely as private dwellings and as their principal place of residence. (See also section 2.8.) Families to be housed must be consistent with the Grantee's Cooperative Agreement, including Grantee's Program Description (as contained in Exhibit4 of the Cooperative Agreement), and Grantee's Inter-Agency Partnership Agreement.

(b) **Grantee Assistance.**

- (1) The Grantee agrees to make Rental Assistance Payments on behalf of Eligible Families for the Assisted Units, to enable the Eligible Families to lease Decent, Safe, and Sanitary housing pursuant to Section 811 of the Cranston-Gonzalez National Affordable Housing Act, 42 U.S.C. 8013, as amended by the Frank Melville Supportive Housing Investment Act of 2010, Pub. L. No. 111-374 and the applicable HUD administrative and regulatory requirements.
- (2) If there is a Utility Allowance and if the Utility Allowance exceeds the total Eligible Family contribution, the Owner shall pay the Eligible Family or the appropriate entity the amount of the excess. The Grantee will pay funds to the

Owner in trust solely for the purpose of making this payment. Any pledge by the Owner of payments properly payable under this Contract shall not be construed to include payments covered by paragraph (b)(2) of section 2.2.

2.3 MAXIMUM HOUSING ASSISTANCE COMMITMENT; PROJECT ACCOUNT.

- (a) **Maximum Annual Contract Commitment.** The Grantee shall not make any Rental Assistance Payments in excess of the amount identified in section 1.1(c) and Exhibit 1, Part I of the RAC, unless Grantee, at its discretion, approves Owner's request to adjust the amount of Rental Assistance Payments in cases where the Rental Assistance Payments are inadequate to provide for reasonable operating costs for the Assisted Units.

The Grantee may reduce the amount identified in section 1.1(c) where there is a reduction in the number of Assisted Units, in the Contract Rents or pursuant to any other provision of this Contract.

2.4 RENTAL ASSISTANCE PAYMENTS TO OWNERS.

- (a) **Rental Assistance Payments on Behalf of Families.**
- (1) Rental Assistance Payments shall be paid to the Owner for Assisted Units under lease for occupancy by Eligible Families in accordance with the Contract as attached in Exhibit 1, Part I of the RAC. The Rental Assistance Payments will cover the difference between the Contract Rent and that portion of the rent payable by the Eligible Family as determined in accordance 24 C.F.R. Part 5 and other applicable administrative and regulatory requirements.
 - (2) The amount of Rental Assistance Payments payable on behalf of the Eligible Family and the amount of rent payable by the Eligible Family shall be subject to change by reason of changes in Eligible Family Income, Eligible Family composition, or pursuant to any HUD regulations or administrative guidance related to the Assisted Units; or by reason of a change in any applicable Utility Allowance, as approved or required by the Grantee. Any such change shall be effective as of the date stated in a notification of the change to the Eligible Family, which need not be at the end of the Lease Term.
- (b) **Vacancies During Rent-Up.** Grantees can determine whether to include payment of vacancies in its Rental Assistance program. If the Grantee decides to provide vacancy payments, for each Assisted Unit that is not leased as of the effective date of this contract, the Owner is entitled to vacancy payments that may not exceed 80 percent of the Contract Rent for up to 60 days of vacancy, provided that the Grantee/Owner: (1) commences and performs appropriate feasible actions to fill the vacancy, consistent with Grantee's PRA program and otherwise complied with section 2.2 of the Agreement, and (2) has not rejected any eligible applicants, except for good cause acceptable to the Grantee.
- (c) **Vacancies after Rent-Up.** If an Eligible Family vacates an Assisted Unit and the Grantee program includes vacancy payments, the Owner is entitled to Rental Assistance Payments (except as provided in paragraph (d) of this section) that may not exceed 80 percent of the Contract Rent for up to 60 days of vacancy if the Owner:
- (1) Certifies that it did not cause the vacancy by violating the lease, the Contract or any applicable law;
 - (2) Notified the Grantee of the vacancy or prospective vacancy and the reasons for it immediately upon learning of the vacancy or prospective vacancy;
 - (3) Has fulfilled and continues to fulfill the requirements under this Contract; and
 - (i) Commence and perform appropriate feasible actions to fill the vacancy, consistent with the Grantee's PRA program and
 - (ii) Has not rejected any eligible applicant, except for good cause acceptable to the Grantee.

- (4) Certifies that any eviction of an Eligible Family resulting in a vacancy was carried out in compliance with section 2.9.
- (d) **Vacancies for Longer than 60 Days.** If an Assisted Unit continues to be vacant for more than 60 consecutive days either during rent-up or after rent-up the Owner shall not be entitled to any payments under 2.4(b)-(c). Grantee and Owner shall comply with any administrative requirements imposed by HUD as related to vacancies for the Section 811 Rental Assistance program.
- (e) **Grantee Not Obligated for the Eligible Family's Rent.** The Grantee has not assumed any obligation for the amount of rent payable by any Eligible Family or the satisfaction of any claim by the Owner against any Eligible Family other than in accordance with section 2.4 of this Contract. The financial obligation of the Grantees limited to making Rental Assistance Payments on behalf of Eligible Families in accordance with this Contract.
- (f) **Owner's Monthly Requests for Payments.**
- (1) The Owner shall submit monthly requests to the Grantee or as directed by the Grantee for Rental Assistance Payments. Each request shall set forth: (i) the name of each Eligible Family and the address and/or number of the unit leased by the Eligible Family; (ii) the address and/or the number of each unit, if any, not leased to Families for which the Owner is claiming payments; (iii) the Contract Rent as set forth for each unit for which the Owner is claiming payments as listed in (1) Exhibit 1, Part I of the RAC for the initial year, and (2) the Grantee approved Rent Schedule (form HUD-92458) for subsequent years; (iv) the amount of rent payable by the Eligible Family leasing the unit; and (v) the total amount of Rental Assistance Payments requested by the Owner.
 - (2) Each of the Owner's monthly requests shall contain a certification by it that to the best of its knowledge and belief (i) the Assisted Units are in Decent, Safe, and Sanitary condition, (ii) all the other facts and data on which the request for funds is based are true and correct, (iii) the amount requested has been calculated in accordance with the provisions of this Contract and is payable under the Contract, (iv) none of the amount claimed has been previously claimed or paid under this Contract, and (v) the Owner has not received and will not receive any payments or other consideration from the Eligible Family, the Grantee, HUD, or any other public or private source for the Assisted Unit beyond that authorized in this Contract and the lease.
 - (3) If the Owner has received an excessive payment, the Grantee, in addition to any other rights to recovery, may deduct the amount from any subsequent payment or payments.
 - (4) The Owner's monthly requests for Rental Assistance Payments are subject to penalty under 18 U.S.C. 1001, which provides, among other things, that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious, or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both.

2.5 MAINTENANCE, OPERATION AND INSPECTION.

- (a) **Maintenance and Operation.** The Owner agrees to maintain and operate the Assisted Units and related facilities in a Decent, Safe, and Sanitary condition in accordance with the requirements in 24 CFR part 5, subpart G including the provision of all the services, maintenance and utilities set forth in section 1.1(e). The Owner also agrees to comply with the lead-based paint regulations at 24 CFR Part 35. If the Grantee determines that the Owner is not meeting one or more of these obligations, the Grantee shall have the right to take action under section 2.19(b).

(b) **Inspection.**

(1) Prior to occupancy of any Assisted Unit by an Eligible Family, the Eligible Family must be given the opportunity to be present for the move-in unit inspection. The inspection of the Assisted Unit would be completed by both the Owner and the Eligible Family and both shall certify, on a form prescribed or approved by the Grantee that they have inspected the Assisted Unit and have determined it to be in Decent, Safe, and Sanitary condition in accordance with the criteria provided in the form. The Owner shall keep a copy of this inspection and make part of the lease as an attachment to the lease. If the Eligible Family waives the right to this inspection, a form prescribed or approved by the Grantee would be signed by the Eligible Family indicating they have waived this right.

(2) The Owner shall perform unit inspections of the Assisted Units on at least an annual basis to determine whether the appliances and equipment in the unit are functioning properly and to assess whether a component needs to be replaced or repaired. This will ensure that the Owner is meeting its obligation to maintain the Assisted Units in Decent, Safe, and Sanitary condition.

(3) In addition to annual Owner inspections described in 2.5(b)(2) above, a physical inspection pursuant to Uniform Physical Condition Standards (UPCS) must also be performed of the Assisted Units and related facilities at a frequency that conforms to the property's other existing federal or state housing programs, but at least every 3 years, and at such other times as may be necessary. If multiple federal or state housing programs are layered at the property, the frequency of the physical inspection shall be determined by the most stringent UPCS standard, with a minimum of every 3 years.

(c) **Units Not Decent, Safe, and Sanitary.** If the Grantee notifies the Owner that it has failed to maintain an Assisted Unit in a Decent, Safe, and Sanitary condition and the Owner fails to take corrective action within the time prescribed in the notice, the Grantee may exercise any of its rights or remedies under the Contract, including reduction or suspension of Rental Assistance Payments.

(d) **Notification of Abatement.** Any reduction or suspension of Rental Assistance Payments shall be effective as provided in written notification to the Owner. The Owner shall promptly notify the Eligible Family of any such abatement.

(e) **Overcrowded and Underoccupied Units.** Where the Grantee determines a unit is larger or smaller than appropriate for an Eligible Family, the Owner agrees to correct the situation in accordance with PRA Program requirements and HUD guidelines in effect at the time of the determination.

Accessibility Requirements. The Owner agrees to maintain the Assisted Units and related facilities in compliance with the following accessibility requirements as applicable at the time of construction or rehabilitation: The Uniform Federal Accessibility Standards at 24 CFR 40.7, section 504 of the Rehabilitation Act of 1973 as implemented by 24 CFR part 8, the design and construction requirements of the Fair Housing Act and HUD's implementing regulations at 24 CFR part 100.

2.6 FINANCIAL REQUIREMENTS.

The Grantee is required to submit to HUD audited annual financial statements that comply with the requirements of OMB Circular A-133. The Grantee shall establish control measures with the Owner to meet the Grantee's financial requirements. The Owner agrees to the Grantee's control measures.

2.7 INITIAL RENTS; RENT ADJUSTMENTS; UTILITY ALLOWANCE.

(a) With respect to the initial rents, Grantee and Owner agrees that in no circumstance may the initial RAC rent level exceed the applicable Section 8 Fair Market Rent (FMR) level as determined by HUD, unless such rent level is substantiated by a market study that has been prepared in accordance with the requirements of a state housing agency, Chapter 9 of HUD's Section 8 Renewal Guide or as approved by HUD. In cases where the initial RAC rent level exceeds Fair Market Rent, Exhibit 1 shall identify how the initial rent settings were determined, as approved by HUD.

(b) **Annual Adjustments.**

(1) After initial rent setting made in the first year of the Contract, subsequent rents shall be adjusted annually based on [CHECK ONE BOX ONLY]:

HUD's Operating Cost Adjustment Factor (OCAF).

other operating cost index as has been adopted by the Grantee for purposes of subsidizing affordable housing, as approved by HUD and as further described in Exhibit 2.

other means as may be approved by HUD, and as further described in Exhibit 2.

(2) Upon request from the Owner to the Grantee, Contract Rents will be adjusted on the anniversary date of the Contract in accordance with this Contract. Within the first year of the Contract and with approval from HUD, the Owner may request to align their Contract anniversary date with the existing federal or state housing programs layered at the property.

(3) Contract Rents may be adjusted upward or downward, as may be appropriate; however, in no case shall the annual adjustment result in Contract Rents less than the Contract Rents on the effective date of the Contract.

(c) **Funding of Adjustments.** Rental Assistance Payments will be made in amounts commensurate with Contract Rent adjustments under this section up to the maximum amount authorized under section 2.3(a) of this Contract.

(d) **Overall Limitation.** Notwithstanding any other provision of this Contract, adjustments after Contract execution, shall not result in higher rents charged for Assisted Units as compared to the unassisted units, as determined by Grantee. .

(e) **Incorporation of Rent Adjustment.** Any adjustment in Contract Rents shall be incorporated into a Rental Schedule (form HUD-92458) establishing the effective date of the adjustment.

(f) Utility Allowance.

If there is a utility allowance, the utility analysis methodology shall be reviewed and if needed adjusted annually based on [CHECK ONE BOX ONLY AND ATTACH UTILITY POLICY IN EXHIBIT 2]:

HUD Multifamily Housing Policy

Public Housing Authority Policy

Rural Housing Services (RHS) Policy

State or Local Housing Agency

Other means as may be approved by HUD, and as further described in Exhibit 2

2.8 LEASING OF UNITS.

- (a) **Compliance with Equal Opportunity Requirements.** Projects shall be managed and in accordance with all applicable EEO requirements.
- (b) **Security Deposits.**
- (1) The Owner may collect a security deposit from the family.
 - (2) The Owner must comply with HUD Security Deposit requirements, which may change from time to time, regarding security deposits from a tenant.
 - (3) When the family moves out of the contract unit, the Owner, subject to State and local law, may use the security deposit, including any interest on the deposit, in accordance with the lease, as reimbursement for any unpaid tenant rent, damages to the unit or other amounts which the family owes under the lease. The Owner must give the family a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used as reimbursement to the Owner, the Owner must promptly refund the full amount of the balance to the family.
 - (4) If security deposit is not sufficient to cover amounts the family owes under the lease, the Owner may seek to collect the balance from the tenant.
- (c) **Eligibility, Selection and Admission of Families.**
- (1) The Owner shall be responsible for the screening of Eligible Families in accordance with a grantee-approved tenant selection plan, from among those referred to the Owner by the Grantee or their designee. Additionally, Owner shall be responsible for the determination of income eligibility of applicants, computation of the amount of Rental Assistance Payments on behalf of each selected Eligible Family and of total Eligible Family contributions and recordkeeping in accordance with applicable HUD regulations and requirements. .
 - (2) The Owner shall not charge any Eligible Family any amount in excess of the total Eligible Family contribution.
 - (3) The Owner must lease Assisted Units only to Eligible Families. The Owner must inform the Grantee or their designee of a vacancy and hold the unit open for a reasonable period of time. If no Eligible Tenants are identified within a reasonable period of time, as determined by the Grantee, the Owner may lease the unit to families which are not eligible for the PRA Program; this household is not entitled to the benefit of the rental assistance. If the number of occupied PRA Assisted Units at the property falls below the Total Number of Assisted Units listed in Exhibit 1 of Part I of the RAC, the Owner will designate the next available appropriate unit as an Assisted Unit until the total number of occupied PRA Assisted Units meets the Total Number of Assisted Units listed in Exhibit 1 or Part I of the RAC.
 - (4) The Lease entered into between the Owner and the Eligible Family shall be on the form as prescribed by HUD.
 - (5)
 - (i) The Owner shall make a reexamination of Eligible Family income, composition, and the extent of medical or other unusual expenses incurred by the Eligible Family at least annually, and appropriate redeterminations shall be made by the Owner of the amount of Eligible Family contribution and the amount of Rental Assistance Payment, in accordance with applicable HUD regulations and requirements.
 - (ii) If an Eligible Family reports a change in income or other circumstances that would result in a decrease/increase of total Eligible Family contribution between regularly scheduled reexaminations, the Owner, upon receipt of verification of the change, must promptly make appropriate adjustments in the total Eligible Family contribution.
 - (iii) An Eligible Family's eligibility for Rental Assistance Payments continues until the total Eligible Family contribution equals the total housing expense for the unit it occupies. The termination of availability at this point

will not affect the Eligible Family's other rights under the lease nor preclude resumption of payments as a result of later changes in income or other circumstances during the term of this Contract.

- (6) The Owner shall maintain as confidential all information relating to PRA applicants and Eligible Families, the disclosure of which would constitute an unwarranted invasion of personal privacy.
- (d) **Rent Redetermination after Adjustment in Utility Allowance.** Consistent with section 2.7 and any HUD administrative requirements related to Utility Allowance, Owner agrees to adjust the rents of assisted Eligible Families in cases where there is a Utility Allowance adjustment.
- (e) **Processing of Applications and Complaints.** The Owner shall process applications for admission, notifications to applicants, and complaints by applicants in accordance with applicable Grantee requirements and shall maintain records and furnish such copies or other information as may be required by HUD or the Grantee.
- (f) **Review: Incorrect Payments.** In making Rental Assistance Payments to Owners, the Grantee will review the Owner's determinations under this section. If as a result of reviews, audits or information received by the Grantee, it is determined that the Owner has received improper or excessive Rental Assistance Payments, the Grantee shall have the right to deduct the amount of such overpayments from any amounts otherwise due the Owner, or otherwise effect recovery.

2.9 TERMINATION OF TENANCY OR PRA RENTAL ASSISTANCE BY THE OWNER.

The Owner agrees not to terminate any tenancy of or assistance on behalf of an assisted Eligible Family except in accordance with the lease, all applicable HUD regulations and other requirements in effect at the time of the termination, and any State and local law.

2.10 NONDISCRIMINATION.

- (a) **General.** The Owner shall not in the selection of Eligible Families, in the provision of services, or in any other manner, discriminate against any person on the grounds of race, color, creed, religion, sex, handicap, familial status, or national origin.
- (b) **The Fair Housing Act.** The Owner shall comply with all requirements imposed by the Fair Housing Act, which prohibits discrimination in the sale, rental, financing and advertising of housing on the basis of race, color, religion, sex, handicap, familial status, or national origin, and any related rules and regulations.
- (c) **Title VI of the Civil Rights Act of 1964 and Executive Order 11063.** The Owner shall comply with all requirements imposed by Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d. et seq.; the HUD Regulations issued thereunder, 24 CFR, Subtitle A, Part 1; the HUD requirements pursuant to these regulations; and Executive Order 11063 and any regulations and requirements issued thereunder, to the end that, in accordance with that Act, Executive Order 11063, and the regulations and requirements of HUD, no person in the United States shall, on the grounds of race, color, creed, or national origin, be excluded from participation in, or be denied the benefits of, the Rental Assistance Payments Program, or be otherwise subjected to discrimination. This provision is included pursuant to the regulations of HUD, 24 CFR, Subtitle A, Part 1 issued under Title VI of the Civil Rights Act of 1964, HUD regulations issued pursuant to Executive Order 11063 and the HUD requirements pursuant to the regulations. The obligation of the Owner to comply therewith inures to the benefit of the United States of America, HUD, any of which shall be entitled to invoke any remedies available by law to redress any breach or to compel compliance by the Owner.

(d) **Section 504 of the Rehabilitation Act of 1973.** The Owner shall comply with all the requirements imposed by section 504 of the Rehabilitation Act of 1973, as amended, and any related rules and regulations. Section 504 provides that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance. Accordingly, the Owner shall not discriminate against any qualified handicapped person on the basis of handicap..

(e) **Employees of Owner.**

- (1) In carrying out the obligations under this Contract, the Owner will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, handicap, familial status, or national origin. The Owner will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, color, creed, religion, sex, handicap, familial status, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- (2) The Owner agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by HUD setting forth the provisions of this nondiscrimination clause. The Owner will in all solicitations or advertisements for employees placed by or on behalf of the Owner state that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, handicap, familial status, or national origin.

2.11 COOPERATION IN EQUAL OPPORTUNITY COMPLIANCE REVIEWS.

The Owner and the Grantee agree to cooperate with HUD in the conducting of compliance reviews and complaint investigations pursuant to or permitted by all applicable civil rights statutes, Executive Orders, and rules and regulations.

2.12 FLOOD INSURANCE.

Flood insurance is required in areas designated by FEMA's Flood Insurance Rate Maps as the 100-year floodplain. If Flood insurance is required, the Owner agrees that the project will be covered, during its anticipated economic or useful life, by flood insurance under the National Insurance Program in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the National Flood Insurance Act of 1968, whichever is less.

2.13 CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT.

In compliance with regulations issued by the Environmental Protection Agency (EPA), 40 CFR Part 15, pursuant to the Clean Air Act, as amended ("Air Act"), 42 U.S.C. 7401, et seq., the Federal Water Pollution Control Act, as amended ("Water Act"), 33 U.S.C. 1251, et seq., and Executive Order 11738, the Owner agrees to:

- (a) Not utilize any facility in the performance of this Contract or any nonexempt subcontractor which is listed on the EPA List of Violating Facilities pursuant to section 15.20 of the regulations;

- (b) Promptly notify the Grantee of the receipt of any communication from the EPA indicating that a facility to be utilized for the Contract is under consideration to be listed on the EPA List of Violating Facilities;
- (c) Comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 of the Air Act and section 308 of the Water Act, and all regulations and guidelines issued thereunder; and
- (d) Include or cause to be included the provisions of this Contract in every nonexempt subcontract, and take such action as HUD may direct as a means of enforcing such provisions.

2.14 REPORTS AND ACCESS TO PREMISES AND RECORDS.

- (a) The Owner shall furnish any information and reports pertinent to this Contract as reasonably may be required from time to time by HUD and the Grantee.
- (b) The Owner shall permit HUD and the Grantee or any of their duly authorized representatives to have access to the premises and, for the purpose of audit and examination, to have access to any books, documents, papers and records of the Owner that are pertinent to compliance with this Contract, including the verification of information pertinent to the Rental Assistance Payments.

2.15 DISPUTES.

- (a) Grantee's determinations with respect to the Assisted Units which are consistent with this Agreement and any applicable HUD requirements will generally not be overturned by HUD. Grantee and Owner are encouraged to resolve disputes through negotiations and mediation, if necessary. However, in the event a dispute may lead to potential default by either party resulting from an ambiguity under this Agreement, the Grantee and the Owner may submit to HUD a request for clarification of the contract term(s) or utilize an alternative dispute resolution process agreed to by both parties and implemented consistent with this section of the RAC. Grantee and the Owner shall explain in writing the underlying facts and the contract term(s) in dispute. HUD shall review the inquiry and: (i) agree that a contract term ambiguity exists and make a final determination on the matter; or (ii) conclude no contract term ambiguity exists or conclude the dispute is outside the scope of HUD review and make no determination as to the issue(s) presented.
- (b) The decision of HUD will not be reviewable unless, within 30 calendar days from the date of receipt of the HUD determination, either party mails or otherwise furnishes to the Secretary of Housing and Urban Development a written appeal with written justification. Both parties shall proceed diligently with the performance of the Contract and in accordance with the decision of HUD pending resolution of the appeal.

2.16 INTEREST OF MEMBERS, OFFICERS, OR MEMBERS OF LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS:

- (a) No person or entity in the following clauses shall have an interest, direct or indirect, in this Agreement or in any proceeds or benefits arising from it, during his or her tenure or for one year thereafter.
 - (1) any member or officer of the Grantee, except where his or her interest is as a tenant;
 - (2) (i) any employee of the Grantee who formulates policy or influences decisions with respect to the PRA project;
(ii) any other employee of the Grantee, except where his or her interest is as a tenant;
 - (3) any member of the governing body or the executive officer of the locality (city or county) in which the project is situated;

- (4) any member of the governing body or executive officer of the locality (city or county) in which the Grantee was activated;
 - (5) any other State or local public official (including State legislators), who exercise any functions or responsibilities with respect to the PRA project;
 - (6) any Grantee, where any of its members, officers, or employees has a personal interest in the project (except an employee who does not formulate policy or influence decisions with respect to the PRA project may have an interest as a tenant).
- (b) Members of the classes described in paragraph (a) who involuntarily acquire an interest in the PRA Demo program or in a PRA project, or who had acquired prior to the beginning of their tenure any such interest, must disclose any interest or perspective interest to the Grantee and the HUD Headquarters and may, with appropriate justification, if consistent with State law, apply through the Grantee for a waiver. The Grantee will review the waiver request and forward their recommendation to HUD Headquarters.
- (c) No person to whom a waiver is granted shall be permitted (in his or her capacity as member of a class described in paragraph (a)) to exercise responsibilities or functions with respect to an Agreement or a Contract executed, or to be executed, on his or her behalf, or with respect to an Agreement or a Contract to which this person is a party.
- (d) The provisions of paragraphs (a) through (c) of this section shall not apply to a utility service if the rates are fixed or controlled by a governmental agency

2.17 INTEREST OF MEMBER OR DELEGATE TO CONGRESS.

No member of or delegate to the Congress of the United States of America or resident commissioner shall be admitted to any share or part of this Contract or to any benefits which may arise from it.

2.18 ASSIGNMENT, SALE OR FORECLOSURE.

- (a) The Owner agrees that it has not made and will not make any sale, assignment, or conveyance or transfer in any fashion, of this Contract, without the prior written consent of Grantee which shall not be unreasonably withheld.
- (b) The Owner and the party signing this Contract on behalf of the Owner represent that they have the authority of all of the parties having ownership interests in the Owner to agree to this provision on their behalf and to bind them with respect to it.
- (c) Except where otherwise approved by Grantee, this Contract shall continue in effect and Rental Assistance Payments will continue in accordance with the terms of the Contract in the event:
 - (1) Of assignment, sale, or other disposition of the project or this Contract,
 - (2) Of foreclosure, including foreclosure by HUD,
 - (3) Of assignment of the mortgage or deed in lieu of foreclosure,
 - (4) The Grantee or HUD takes over possession, operation or ownership,

2.19 DEFAULTS BY GRANTEE AND/OR OWNER.

- (a) **Rights of Owner if Grantee Defaults under Contract.**
 - (1) Events of Default. The occurrence of any of the following events constitutes a default:

- (i) If the Grantee fails to perform or observe any term or condition of this Contract;
 - (ii) If the Contract is held to be void, voidable, or ultra vires;
 - (iii) If the power or right of the Grantee to enter into the Contract is drawn into question in any legal proceeding.
- (2) Owner Request for HUD Determination of Default. If the Owner believes that an event as specified in paragraph (a)(1) has occurred, and the Owner is not in default, the Owner may, within 30 days of the initial occurrence of the event:
- (i) Notify HUD of the occurrence of the event;
 - (ii) Provide supporting evidence of the default and of the fact that the Owner is not in default; and
 - (iii) Request HUD to determine whether there has been a default.
- (3) HUD Determination of Default and Curing of Default. HUD, after notice to the Grantee giving it a reasonable opportunity to take corrective action, or to demonstrate that it is not in default, shall make a determination whether the Grantee is in default and whether the Owner is not in default. If HUD determines that the Grantee is in default and that the Owner is not, HUD shall take appropriate action to require the Grantee to cure the default. If necessary for the prompt continuation of the project, HUD may assume the Grantee's rights and obligations under the Contract. HUD may, subject to appropriations and its ability to recover funds from the Grantee, pay Project Rental Assistance Payments with respect to the Assisted Units in accordance with this Contract until reassigned to another Grantee or returned to the original Grantee under this Agreement. All rights and obligations of the Grantee assumed by HUD will be returned to the same or another Grantee:
- (i) when HUD is satisfied that all defaults have been cured and that the Assisted Units will thereafter be administered in accordance with all applicable requirements, or
 - (ii) when the Contract is at an end, whichever occurs sooner.
- (4) Enforcement by Owner. The provisions of this paragraph (a) are made for the benefit of the Owner and the Owner's other assignees, if any, who have been specifically approved by HUD prior to the assignment. These provisions shall be enforceable by these parties against HUD by suit at law or in equity.
- (b) Rights of Grantee and HUD if Owner Defaults under Contract.
- (1) Events of Default. A default by the Owner under this Contract shall result if:
- (i) The Owner has violated or failed to comply with any provision of, or obligation under, this Contract or of any Lease, including failure to correct any deficiencies identified by the Grantee in connection with any inspection; or
 - (ii) The Owner has asserted or demonstrated an intention not to perform some or all of its obligations under this Contract or under any Lease.
- (2) Grantee Determination of Default. Upon a determination by the Grantee that a default has occurred, the Grantee shall notify the Owner, of:
- (i) The nature of the default,
 - (ii) The actions required to be taken and the remedies to be applied on account of the default (including actions by the Owner to cure the default), and
 - (iii) The time within which the Owner shall respond with a showing that all the required actions have been taken.
- If the Owner fails to respond or take action to the satisfaction of the Grantee, the Grantee shall have the right to take corrective action to achieve compliance, in accordance with paragraph (b)(3) or to take other corrective action to achieve compliance in its discretion, or as directed by HUD
- (3) Corrective Actions. Pursuant to paragraph (b)(2) of this section the Grantee, in its discretion may take the following corrective actions:
- (i) Bring any action necessary to enforce any obligations of the Owner growing out of the project operation

- (ii) Apply to any court, State or Federal, for specific performance of this Contract, for an injunction against any violation of the Contract for such other relief as may be appropriate
- (iii) Reduce or suspend Rental Assistance Payments.
- (iv) Recover any overpayments.

(4) HUD Rights.

- (i) Notwithstanding any other provisions of this Contract, in the event HUD determines that the Owner is in default of its obligations under the Contract, HUD shall notify Grantee, who shall take action on behalf of HUD. In the event that the Grantee does not take appropriate action as determined by HUD, HUD shall have the right, after notice to the Owner, the trustee, if any, and the Grantee giving them a reasonable opportunity to take corrective action, to proceed in accordance with paragraph (b)(3).
- (ii) In the event HUD takes any action under this section, the Owner and the Grantee hereby expressly agree to recognize the rights of HUD under this Contract to the same extent as if the action(s) were taken by the Grantee.

- (c) **Remedies Not Exclusive and Non-Waiver of Remedies.** The availability of any remedy under this Contract, shall not preclude the exercise of any other remedy under this Contract or under any provisions of law, nor shall any action taken in the exercise of any remedy be considered a waiver of any other rights or remedies. Failure to exercise any right or remedy shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

2.20 LEGAL RELATIONSHIP

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

Exhibit 1: Initial Rent Setting Methodology, where applicable. [Exhibit 1 is not required if the initial RAC rent level does not exceed the applicable Section 8 Small Area Fair Market Rent or Fair Market Rent (FMR) level as determined by HUD.]

Exhibit 2: Explanation of Rent Adjustments, and/or attachment of Utility Allowance Policy Under Section 2.7, where applicable.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. HUD may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

This information collection is necessary to ensure that viable projects are developed. It is important to obtain information from applicants to assist HUD in determining if nonprofit organizations initially funded continue to have the financial and administrative capacity needed to develop a project and that the project design meets the needs of the residents. The Department will use this information to determine if the project meets statutory requirements with respect to the development and operation of the project, as well as ensuring the continued marketability of the projects. This information is required in order to obtain benefits. This information is considered non-sensitive and no assurance of confidentiality is provided.

USE AGREEMENT

For Projects Assisted Under the Section 811 Project Rental Assistance Program

This Agreement entered into this ____ day of ____, 20__ by and between _____ (herein called "Owner") and the _____ (herein called "Grantee"),

Witnessed:

WHEREAS, HUD is directed, pursuant to Section 811 of the Cranston-Gonzalez National Affordable Housing Act (NAHA), as amended by the Frank Melville Supportive Housing Investment Act of 2010, Public Law 111 – 374, to establish the Section 811 Project Rental Assistance Program ("PRA") to provide rental assistance to persons with disabilities at eligible multifamily projects; and

WHEREAS, in consideration of the Grantee promise to provide HUD funding to Owner, for the property known as _____, located in _____ (City, State), more particularly described in the RAC or in a separate development legal description attached as an Exhibit to the Use Agreement, in accordance with HUD requirements related to the PRA, or any successor program, Owner agrees to implement this Use Agreement.

NOW THEREFORE, the parties agree as follows:

Owner, for itself, its successors and assigns, covenants with the Grantee that the Owner will operate a predetermined number of Assisted Units in the Owner's project in accordance with the Section 811 Rental Assistance Program, Rental Assistance Contract (RAC), HUD PRA requirements, including but not limited to any applicable HUD regulatory, administrative, and contractual requirements, for not less than the thirty years from the date of the Use Agreement. Accordingly, this Use Agreement shall remain in effect until _____ [insert expiration date]; or until such time as the number of Assisted Units in the RAC has been reduced to zero, as approved by the Grantee.

Subject to the availability of appropriations and so long as Owner is in compliance with all HUD requirements, including but not limited to this Use Agreement, the Grantee shall provide to the Owner Rental Assistance Payments for units assisted by section 811 of NAHA (Assisted Units). If Congress fails to appropriate funds adequate to meet the financial needs of the Assisted Units, HUD will not require the Grantee to enforce the Use Agreement covered under a RAC. Under such a circumstance, HUD will allow Grantee to continue to enforce or terminate the Use Agreement at the Grantee's discretion .

In the event of a breach or a threatened breach of any of the above covenants and agreements by the Owner, Grantee or HUD shall be entitled to institute legal action to enforce performance and observance of such covenants and agreements and to enjoin any acts which violate such covenants and agreements. HUD may also seek an award of damages and/or other relief as may be appropriate.

Owner, for itself, its successors and assigns, hereby agrees and acknowledges that this Use Agreement shall be recorded in the appropriate land records.

With respect to the eligibility requirements for the Assisted Units, Owner will comply with the RAC. Owner will comply with all other PRA, or successor program requirements as promulgated by HUD, as appropriate.

With respect to Assisted Units, Owner will comply with the provisions of any Federal, State or local law prohibiting discrimination in housing on the grounds of race, color, religion or creed, sex, handicap, familial status or national origin, including the Fair Housing Act of 1968, as amended.

The rent charged for Assisted Units shall not exceed the upper limit of the range shown for such type of unit on a rental schedule approved in writing by Grantee, and shall include the reasonable use of all utilities (if applicable) shown on the rental schedule. Notwithstanding any other provision of this Agreement, adjustments after Contract execution shall not result in higher rents charged for Assisted Units as compared to the non-Assisted Units, as determined by Grantee.

Any requests for rent adjustments to the Grantee by the Owner shall be consistent with the requirements of the Rental Assistance Contract and all other PRA or successor program requirements.

Owner shall maintain the premises and equipment, appurtenant thereto, in good repair, safe and sanitary condition consistent with HUD requirements.

The books and accounts of the operations of the property shall be kept in accordance with the relevant HUD requirements related to the PRA, or any successor program.

Owner further covenants and agrees that if Owner conveys title to the project prior to the Use Agreement's expiration, Owner will prior to transfer of title: (1) confirm the purchaser has been approved by Grantee ; the Grantee will ensure the purchaser will operate the project in such a way that it will remain an "Eligible Project" pursuant to 42 U.S.C. 8013(b)(3)(C) and (2) require the purchaser to assume the obligations of this Use Agreement and the Rental Assistance Contract.

Owner shall provide to Grantee or HUD promptly following receipt of a written request from HUD copies of all business or any other documents regarding the Housing Project, so that Grantee or HUD may evaluate Owner's compliance with the terms of this Agreement. In addition, Owner shall permit Grantee or HUD following notice from Grantee or HUD to examine the originals of all such documents, at the Project's office during regular business hours.

Owner must certify annually by _____ of each year (insert date within 30 calendar days of the anniversary date of this Agreement or insert date that will align with other program reporting requirements), to the Grantee that it is operating the Project in compliance with this Agreement and, more specifically, that all Assisted Units and non-Assisted Units, as well as the physical structure of the project as a whole, for example grounds and equipment, comply with all applicable codes and requirements of this Agreement or that a remedial program to correct any existing deficiencies has been implemented.

Should any of the above covenants be held invalid in whole or in part, it shall not affect or invalidate the balance of such covenant or any other covenants.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the parties hereto agree as follows:

In witness whereof, the parties hereto have caused these presents to be executed on their behalf and their seals affixed the day and year written below.

WITNESS

(Owner)

BY

And

Grantee

ACKNOWLEDGEMENT BY OWNER BEFORE
NOTARY

(Complete according to requirements of

ACKNOWLEDGEMENT BY

COMMISSIONER:)

STATE OF _____)

PUBLIC

state of execution.)

SS:

CITY AND COUNTY OF _____)

On this _____ day of _____,

20____, before me _____, a Notary Public in and for the City and County of _____,

_____, appeared _____ to

me personally known and known to me to be the duly Authorized Agent of _____, and

the person who executed the aforesaid instrument bearing the

date of _____, 20____, and acknowledged that he executed the aforesaid instrument for and on behalf of

_____ for the purposes herein.

(NOTARY PUBLIC)

My Commission Expires: _____

ACKNOWLEDGEMENT BY COMMISSIONER:)

STATE OF _____) SS:

CITY AND COUNTY OF _____)

ON this _____ day of _____,

20___, before me _____, a Notary

Public in and for the City and County of _____,

_____, appeared _____

to me personally known and known to me to be the duly Authorized Agent of the Grantee, and the person who executed the aforesaid instrument bearing the date of _____, 20___, and acknowledged that he executed the aforesaid instrument for and on behalf of the said Grantee for the purposes herein.

NOTARY PUBLIC)

My Commission Expires:_____